104

NATURE, EXTENT, AND PROLIFERATION OF FEDERAL LAW ENFORCEMENT (Part 1.—An Introduction and Overview)

Y 4. J 89/1: 104/48

Nature, Extent, and Proliferation o...

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

NOVEMBER 15, 1995

Serial No. 48

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NATURE, EXTENT, AND PROLIFERATION OF FEDERAL LAW ENFORCEMENT

(Part 1.—An Introduction and Overview)

WEDNESDAY, NOVEMBER 15, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2141, Rayburn House Office Building, Hon. Bill McCollum (chairman of the subcommittee) presiding.

Present: Representatives Bill McCollum, Steven Schiff, Howard Coble, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Bob Barr, Charles E. Schumer, Robert C. Scott, Sheila Jackson Lee, and Melvin L. Watt.

Also present: Representative John Conyers, Jr.

Staff present: Paul J. McNulty, chief counsel; Glenn R. Schmitt, counsel; Daniel J. Bryant, assistant counsel; Aerin D. Dunkel, research assistant; Audray L. Clement, secretary; and Tom Diaz, minority counsel.

OPENING STATEMENT OF CHAIRMAN McCOLLUM

Mr. MCCOLLUM. The Subcommittee on Crime will come to order.

Today we begin the first of a series of several hearings on the organization and authority of Federal law enforcement. I don't think it is an exaggeration to say that public support for reexamining the size and scope of the Federal Government is at an all time high.

The soaring costs of Federal programs and services and the impersonal nature of Federal bureaucracies are just two of the reasons why constituents overwhelmingly support restructuring and downsizing the Federal Government.

In this regard, the Vice President's National Performance Review is one important response to the public's concern, and it highlights the potential for bipartisan cooperation as we move forward.

As this Congress examines the nature and extent of the Federal Government's responsibilities, the Subcommittee on Crime must do its part by taking a hard look at how the Government fulfills its law enforcement responsibilities. The American people expect nothing less. This is especially important because of the menacing nature of crime and the critical need to ensure that the Government's limited resources are being used in the most effective manner.

Finally, by way of introduction, let me say that this review of the structure of Federal law enforcement rightly follows on the heels of congressional hearings concerning the tragic incidents at Waco and Ruby Ridge. If nothing else, an examination of those disasters has taught us that Federal law enforcement is a patchwork quilt of policies, authorities, and even tactical capabilities.

I should also say at the outset that there is a considerable amount of speculation about the direction in which we are headed. Many are concerned about the possibility of change, and that is understandable, but, as I have indicated to my colleague from New York, Mr. Schumer, there are no hidden agendas or preconceptions about what, if anything, should be done.

We should all be interested in an honest and fair look at these issues. This is not about vindicating Republican and Democratic policy. This is about good government and serving one of the public's most important needs, and so today we begin with an overview.

In September I asked the General Accounting Office to assist us in understanding the current structure of Federal law enforcement. I requested that they tell us how many law enforcement officers are employed by the Federal Government, where do they work, and what is the nature and scope of their authority.

GAO's work, as we will hear here today, is ongoing, and committee members are encouraged to suggest additional elements of this study. We will also hear today from three men whose combined experience with Federal law enforcement has spanned several decades in both Democratic and Republican administrations. They will be just the first voices of many that we will hear on this important topic.

Finally, let me say that there are many issues that I hope we will talk about today. Let me name just a few.

One, to what extent has the dispersion of federal law enforcement power throughout the executive branch been counterproductive to the basic mission of law enforcement?

Two, to what extent are Federal law enforcement agencies competing for resource, and how effective has Congress been in sorting out these demands?

Three, do we have the right priorities, or is Federal law enforcement overly influenced by historic patterns?

Four, has the confidence of the American people in Federal law enforcement been seriously eroded?

The effort we begin today is a significant possibility for good. I look forward to the cooperation of my colleagues and the Federal law enforcement agencies as we head down this road.

And I now yield to the gentleman from New York, Mr. Schumer.

Mr. SCHUMER. I thank you, Mr. Chairman.

Of course, I must confess that I have strongly mixed feelings about these hearings. I agree that oversight hearings are important, and I think they shed light on Federal laws and programs. They help America understand what new laws are needed, what old laws should be changed, and how well the Nation's Government is being run.

I believe in government, and I believe that government programs are there to help people, but if you just put a program in place and

don't oversee it, don't prune it, don't change it, don't adapt it to the times, we are going to lose out, and we have seen that with a good number of programs, and I agree with my colleague, Mr. McCollum, on that.

But I would also say that this hearing is not being held in a vacuum. This hearing is carrying potentially explosive baggage. That baggage causes me to moderate my enthusiasm, suspend my judgment, and, most of all, frankly, raise my guard until I understand more clearly where we are going.

Now, let me briefly lay this baggage out on the table. First, the hearing comes after a wave of highly partisan, grossly ideological attacks in this Congress on Federal law enforcement agencies in general and on the Bureau of Alcohol, Tobacco and Firearms in particular.

Thousands of dedicated men and women, Federal law enforcement officers who put their lives on the line every day for all of us, have been slandered. They have been called jackbooted thugs. They have been compared to Gestapo agents.

Second, the National Rifle Association and the extreme right wing have tried to seize control of an earlier set of oversight hearings—let me speak the dreaded name, Waco—and turn them into a witch hunt. We stopped that effort cold, to the shame and embarrassment of the NRA and some of its more extreme supporters.

But these experiences have left those of us on this side of the aisle gun shy. Our guard is up.

Now, I want to say immediately and without any equivocation that I have every confidence in the good faith and skill of my friend, Chairman McCollum, but if anyone else should get the wrong idea, should want to take advantage of these hearings to land a cheap shot, they should be warned. We will not allow these hearings to turn into a witch hunt aimed at abolishing or crippling the ATF.

Finally, let me raise a question about the committee's overall balance and perspective. We held 10 days of hearings on the conduct of Federal law enforcement agencies at Waco. We have been told that this is just the first day of a series of hearings that we will also hold of Federal law enforcement agencies that will also hold Federal law enforcement agencies under the microscope. But we held only one day, only one day, of hearings on the violent, armed antigovernment paramilitary organizations that are still stalking America today, and we still have no knowledge in this Congress of whether the recent violence that we have seen in Oklahoma City, in Arizona, and even in my city of New York, have anything to do with those militias.

These violent groups are the real threat to ordinary Americans. These are the organizations that have killed innocent Americans and that will kill again. They are organizations that breed and spawn the twisted, hate-filled thought that inexorably ended up in the tragic bombing in Oklahoma City.

The comparative number of days we have devoted to these subjects says something about our priorities, Mr. Chairman, and our priorities, in my judgment, are turned upside down. Ask the average American who would they rather have living next door to them, someone like a Timothy McVeigh or an FBI agent or ATF agent?

They will take the FBI agent or the ATF agent any day, any minute, every time.

The enemies of decency, the enemies of society, the enemies of good government are not the men and women of Federal law enforcement. Our enemies are the drug lords and the gun runners and the violent extremists and the international terrorists and the gun-toting crooks that the men and women of Federal law enforcement face on the streets every day.

Yes, let's see if structural problems exist. Yes, let's fix any true problems that we find. But let's get on with the real agenda of the American people. This is the Crime Subcommittee. Let's turn our attention to the criminals, drug lords, crooks, gun runners, violent terrorists, et cetera. Let's ease up on the good guys for a change.

Thank you.

Mr. MCCOLLUM. Thank you very much, Mr. Schumer.

Mr. Coble, would you like an opening remark?

Mr. COBLE. Oh, I came here, Mr. Chairman, prepared not to deliver an opening remark, but after my friend from New York's barrage, I am going to be obliged to say a word or two.

Now, the gentleman from New York said that there is an grossly ideological attack upon law enforcement, which is clearly subject to interpretation. Now, it is my belief, Mr. Chairman and fellow members of the subcommittee, that the law enforcement community has been beneficiary of a friend in the Congress on our side of the aisle more consistently than on Mr. Schumer's side of the aisle. So this business about our trashing law enforcement is not going to fall upon a silent tongue, as far as I am concerned.

Now, on the other hand, if law enforcement conducts itself in extreme manners to the detriment of the individual citizen, I think, in fact, we should respond loudly and clearly. I don't care if it is the FBI, the ATF, the State highway patrol, the deputy sheriff. If personal rights are violated by these law enforcement officers, then I think we in the Congress are obliged to respond. But I take offense, Charlie, for the grossly ideological attack. I think that is clearly off the mark. And, Mr. Chairman, I look forward to the hearing as it progresses today.

Mr. MCCOLLUM. Mr. Conyers, would you like to make an opening remark?

Mr. CONYERS. Could I be permitted?

Mr. MCCOLLUM. You are an ex-officio member of the subcommittee so you certainly may.

Mr. CONYERS. Thank you, Mr. Chairman.

I won't divide the committee into those who would close down the Federal Government and those who would keep it open. Because of your courtesy, I will skip that part and deal with the suspicion that I have.

I have worked with GAO in the past while serving as chair of the Government Operations Committee, so I issue my usual friendly warning to you guys from GAO. Steer clear of the fun and games and the cute stuff that goes on in the Congress. You are supposed to be guiding us away from that.

So I approach this hearing, because of the chairman of this subcommittee's courtesy, without suspicion. I do not suspect that this is a thinly veiled attempt to rationalize the elimination of the Bu-

reau of Alcohol, Tobacco and Firearms. I don't know how or why this subject got on the screen but now that it is on the screen, I will look to GAO, which is not partisan, to give us the benefit of their remarks.

Now, there are those in the Congress and on the committee who would like to eliminate ATF. They want to get rid of it, move it out, spread it to the winds, all in the name of making a more efficient crime-fighting unit inside the Government. If there is some justification for that, I sure want to hear it.

Nobody has criticized the Federal Government's criminal justice process more than this Member, if only because I have been doing it longer. So I am not here to defend the Government's position, whatever that may be, but we want to make things stronger and better. I have the impression that over at ATF we probably have the most concerned people working on crime problems and considering how ATF can be an even more effective crime-fighting unit within the Treasury Department.

I thank you, Mr. McCollum, and yield back the balance of any time I may have.

Mr. MCCOLLUM. You are quite welcome.

Does anybody else wish to make an opening comment?

Mr. Heineman.

Mr. HEINEMAN. Thank you, Mr. Chairman.

Again, we get off on the wrong foot even before we—even before we get out of bed, and I hate that. I see it every set of hearings that we have. I have seen it in a Housing subcommittee hearing, trying to separate the good guys from the bad guys.

And I certainly don't want to impugn the intentions of Mr. Schumer. I have learned through many hearings here that he is very pro law enforcement, but that doesn't set him aside from members on the other side of the chairman. I am pro law enforcement, and as I look at my colleagues on this side I see Steve Schiff, having been a prosecuting attorney; and Howard Coble, an ex-U.S. attorney; and Bob Barr, a U.S. attorney from the Northern District of Georgia. We know law enforcement, we have been in it, and we are not willing to look beyond the mistakes in law enforcement but to bring them out to improve law enforcement. I think that is what these hearings are, and it does need oversight.

Any police department or any Federal agency that hasn't been looked at for 10, 15 years, needs someone to go in and look at it and see if they are doing what needs to be done. I think that is positive. I think it is good. I think what the FBI is going through now, these days, and what the ATF is going through now these days, is very deleterious to those members, those fine members of law enforcement, and if we can shortstop that by having these hearings and bring things out in the open, I think not only does it do service to the people of this country but to the agencies themselves. I think an ounce of prevention is worth a pound of cure.

And because we can see things that are wrong and bring them out doesn't mean there is something wrong with us. It is certainly a lot better than covering up just for the sake of—just for the sake of protecting the good guys. I am for the good guys. I have been a good guy for 39 years, and my son is a good guy now, and I know

that without oversight the good guys sometimes make mistakes that could have been avoided.

So I look forward to not only talking about the structure of Federal Government where law enforcement is concerned, I look forward to looking, if not at these hearings, at future hearings, as to what is the hierarchical responsibility in those agencies, because, quite frankly, during the ATF hearings—not hearings but Waco hearings, we saw a level at a point where, in the ATF and in the FBI, the hierarchy was out to lunch and everybody is looking down to blame the agent on the street or the supervisor.

Now, we are paying big moneys to those people who were out to lunch, and I want to know, is there somebody up there watching and responsible?

Now, we may not be able to answer that during these hearings, Mr. Chairman, but I certainly hope at some point in the future we can get in and look and not to dictate but hopefully to place or urge placing responsibility where it belongs.

Thank you.

Mr. MCCOLLUM. Would the gentleman yield to me on your time just a moment?

Mr. HEINEMAN. Yes.

Mr. MCCOLLUM. I just wanted to comment, your statement is very appropriate. I am going to be meeting later today with the Speaker on the subject of the Park Police, the National Park Police, which a lot of people don't even realize we have. Maybe they do because of Vince Foster's death, but they don't know much about it.

The reason I am meeting with him is because of a resource shortage problem, and it appears that the Department of the Interior which oversees them just doesn't give them the time of day. It is not a big deal for them. The rangers are more important, and the park police are a secondary thing.

So that is just one example of many that are potentially out there where these various law enforcement functions are buried in different agencies of the Government and they may not be getting the kind of attention that they need to do the jobs that they were designed to do.

So I think your comments are extremely well taken. This is not a simple matter of the ATF. This is a matter of all of law enforcement. I thank the gentleman for yielding.

Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. Just very briefly, I would like to follow up on the comments from my friend from North Carolina in terms of personal rights.

We heard during the Waco hearings comments about the exclusionary rule, which pointed out that this was the only way that we could protect individual rights and change police misconduct. It is the most effective. And yet earlier this year we watered down the exclusionary rule and passed a terrorism bill that included significant diminishing of the exclusionary rule.

We also had a hearing on a bill within the last couple of weeks that would have put a cap on damages assessed to police officers for punitive damages for gross violations of personal rights. That bill is in subcommittee, and I hope it doesn't leave subcommittee.

On this hearing, I don't know if that is going to come—if those issues will come out in this hearing, but one thing that I will be looking to is whether or not the overlap in different police agencies caused problems because of their structure or because of the particular personnel in the various agencies. Some are obviously doing a much better job than others, and whether or not that is a function of the structure or the particular individuals involved would be one thing that I will be looking at, and also whether or not the overlap is good or bad.

If you have—if you don't have a DEA, the question of drug enforcement, maybe it is popular today, not popular tomorrow, whether or not we will have a focus on those kinds of issues will be another thing that I will be looking at, and also the coordination with the local police where most of the crime is fought anyway.

So I thank you for the opportunity to speak.

Mr. MCCOLLUM. You are welcome, Mr. Scott.

Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Although I have only been serving on this subcommittee for just under a year now, it appears as if I know more about the role of oversight than members on the other side that have been here for many years, if one is to believe their remarks.

Very clearly, there is reason for these hearings. It falls clearly within the oversight responsibility of the subcommittee. It is set forth in black and white. So protestations from the other side that we don't know why this is on the radar screen or we don't know why we are here, this is inappropriate, is rather misplaced.

I mean it is very appropriate and responsible for this subcommittee, in its oversight role, to evaluate the role of Federal law enforcement to see if there can be improvements made in bureaucracies, in jurisdiction, in training, in resource allocation. I mean, these are the very essential issues that this subcommittee performs and other subcommittees have performed with regard to agencies under their jurisdiction.

If nothing else, the events of recent years have indicated that there may very well be problems with overlapping jurisdiction, with improper training, with resource allocation, with the use of certain components within some of our law enforcement agencies for purposes that they were not really intended to, and I think it helps all of us, including, most importantly, those agents and those officers and those investigators that are out there putting their lives on the line, to know that these matters are being looked at, that if there are problems that need to be corrected, that they do have responsible Members of Congress that put politics aside and look at these in an objective fashion.

I have spoken over the last several of months with many officials from many Federal law enforcement agencies, and here again, despite folks on the other side professing ignorance as to why we have these hearings, the law enforcement officials understand very well why we have these hearings, and one of them that I have spoken with, including heads of Federal agencies, including some that have come under fire publicly recently, understand very well the need for the hearings and have told me that they welcome them.

They think it is entirely appropriate for Congress to review these matters, to see if changes can be made to strengthen the tools, the appropriate tools their law enforcement officials need, to clear up lines of authority, to clear up lines of jurisdiction, to make sure that resources are being allocated properly, to make sure that there are proper training standards, proper coordination standards, proper standards for dealing with the media, proper standards for the use of hostage rescue teams, proper standards for bringing the military in for very limited training circumstances, and a whole range of issues.

So, Mr. Chairman, I commend you for beginning this very fundamental and very important process of beginning to really get a handle on whether or not there are problems, which I think there are, that need to be addressed, so we can get about the business of strengthening the resources, the tools, the bureaucracies, and the jurisdiction that our law enforcement agencies need and that we want to make sure that they have.

So I commend the chairman and look forward to this series of hearings.

Mr. MCCOLLUM. I thank the gentleman.

Mr. Schiff, do you have any opening comments you would like to make?

Mr. SCHIFF. Thank you for the courtesy, Mr. Chairman, but let's get on with the witnesses.

Mr. MCCOLLUM. Fair enough.

It is my pleasure to introduce our first panel this morning. I want to welcome Norman J. Rabkin, the Director of the Administration of Justice Issues at the General Accounting Office, where he leads the GAO's review of the Department of Justice, the investigative agencies of the Department of Treasury, and the judicial branch of government. Prior to his present assignment, Mr. Rabkin was the Associate Director for Military Operations and Capabilities in GAO's National Security and International Affairs Division. He received his BS degree in accounting from the University of Scranton and a master's degree in administration from George Washington University.

Welcome, Mr. Rabkin.

Weldon McPhail is the Assistant Director of Administration of Justice Issues at GAO and has over 25 years of experience in law enforcement and related fields. He has been with GAO for 15 years and has worked on a variety of criminal justice issues ranging from corrections to drug enforcement. Prior to joining the GAO, he was a commissioner of corrections and the prison administrator for a local government. He holds a masters and Ph.D. degree in public administration from Catholic University.

Welcome, Dr. McPhail. We are very glad to have you with us today.

Mr. Rabkin, you may proceed as you see fit. We would like to have your presentation. We want to thank you for the work you have already done on this project.

STATEMENT OF NORMAN J. RABKIN, DIRECTOR, ADMINISTRATION OF JUSTICE ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY WELDON McPHAIL, ASSISTANT DIRECTOR

Mr. RABKIN. Thank you, Mr. Chairman.

I have a prepared written statement that I have submitted, and I would like to summarize it, if I may.

Mr. MCCOLLUM. Certainly. The entire statement will be admitted into the record, without objection, and you may summarize.

Mr. RABKIN. I am pleased to appear before you this morning to discuss composition and salary costs of Federal law enforcement personnel with criminal investigative authority. With me is Weldon McPhail, who supervised this work.

A few weeks ago, you asked us to provide information on which agencies are authorized to investigate criminal violations of Federal law, the specific authorities of those agencies, the extent of any jurisdictional overlap and/or duplication of efforts, and the number and annual cost of law enforcement personnel in these agencies.

We have completed some preliminary work. Today, I will discuss the information we have obtained so far on Federal agencies with personnel employed in certain occupational series with criminal investigative responsibilities, the number of these personnel, and their associated salary costs.

I will also discuss previous GAO reports on jurisdictional overlap or duplication of efforts among the agencies.

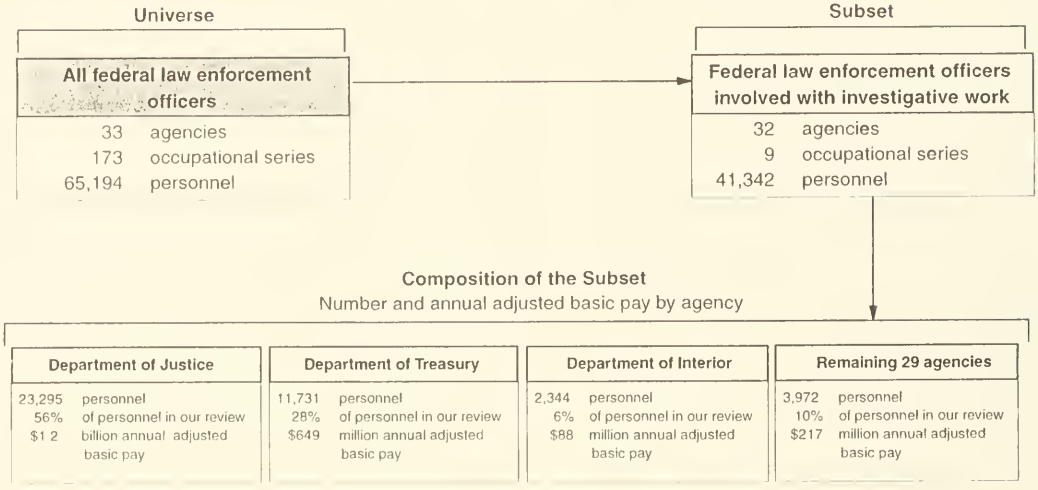
First, I would like to talk about the numbers. Using the Office of Personnel Management's records as of March 31, 1995, we identified a universe of 65,194 Federal employees, working in 33 Federal departments and agencies, who are eligible for special law enforcement pay and/or potentially for special retirement benefits and who were assigned to one of 173 occupational series that involve some form of law enforcement.

Using OPM's September 1993 "Handbook of Occupational Groups and Series," and with the assistance of subcommittee staff, we identified 9 of the 173 occupational series that appeared to significantly involve criminal investigative work.

As depicted in the first chart that is on the left, we then identified 32 of these agencies with 41,342 employees who were also classified in one of the nine occupational series. Adjusted basic pay for these employees as of March 31, 1995, totaled about $2.2 billion annually. This represents pay only and does not include the cost of benefits.

[The chart follows:]

GAO Composition of Federal Law Enforcement Personnel



Mr. RABKIN. Over 56 percent or 23,295 individuals, were employed by the Justice Department at an annual salary cost of about $1.2 billion. An additional 11,731, or over 28 percent, were employed by the Treasury Department at an annual salary cost of about $649 million. And 2,344, or nearly 6 percent, were employed by the Interior Department at an annual salary cost of about $88 million. The remaining 3,972, or about 10 percent of the total, were employed by 29 other departments and agencies at an annual salary cost of about $217 million.

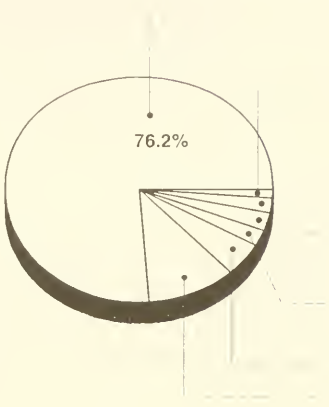
The two other charts that are up here present our data for thed 32 agencies broken down by the number and percentage of personnel in each job series and the amount and percentage of annual basic pay for personnel in each series.

[The chart follows:]

GAO

Federal Law Enforcement Personnel in Investigative Job Series

Federal Law Enforcement Personnel



Criminal Investigating (31,531)

Others[a] **1.2%** (503)

Park Ranger **2.1%** (867)

General Inspection, Investigation, and Compliance **2.3%** (955)

Compliance Inspection and Support **2.6%** (1,057)

Police **4.8%** (1,968)

Border Patrol Agent **10.8%** (4,461)

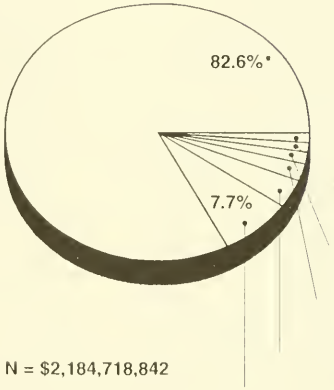
N = 41,342

[a] Note: Others includes Customs Patrol Officer **.1%** (35), Immigration Inspection **.3%** (132), and Game Law **.8%** (336).

GAO

Annual Adjusted Basic Pay in Investigative Job Series

Federal Law Enforcement Personnel



N = $2,184,718,842

Criminal Investigating

Others[a] 1.2%

Park Ranger 1.2%

Compliance Inspection and Support 1.5%

General Inspection, Investigation, and Compliance 2.2%

Police 3.6%

Border Patrol Agent

[a]Note: Others includes Customs Patrol Officer 0.1%, Immigration Inspection 0.3%, and Game Law 0.8%.

Mr. RABKIN. As you can see, about 87 percent are in the criminal investigator or the "1811," series and they received about 82 percent of the salary costs of the Federal criminal investigative personnel in our review.

In my written statement on page 7, the agency components with the most personnel in these nine job series are shown, and they were the FBI, the Immigration and Naturalization Service, IRS, DEA, the Secret Service, the Customs Service, the Marshals Service, ATF, and the National Park Service. Together, these personnel represented about 88 percent of the Federal criminal investigative personnel in the 32 agencies as of last March 31.

Mr. Chairman, there are many ways we could have defined law enforcement and criminal investigative work. Over the next few months we plan to discuss further our definition with officials from OPM, the agencies with most of these employees, and the subcommittee.

We will then develop and administer a survey to all agencies with Federal law enforcement personnel doing criminal investigative work to verify the number of personnel and associated salary and benefit costs.

We also plan to provide the subcommittee with a description of the types of Federal criminal violations the agencies are responsible for investigating and the legislative authorities under which they investigate possible Federal criminal violations.

Now I would like to talk for a moment about overlap or duplication among agencies with law enforcement as a primary responsibility. Since 1990, GAO has issued several reports on this subject. We have generally supported the need for greater coordination among the numerous agencies involved in Federal law enforcement. However, we have not taken a position as to whether or the extent to which the various law enforcement agencies should be consolidated.

In 1990, we reported that the DEA and the FBI were carrying out their drug law enforcement responsibilities independent of each other. They were independently developing investigative strategies and priorities, operating separate intelligence systems, and using different systems for reporting and measuring their performances. The agencies have since undertaken several joint initiatives designed to enhance coordination in such areas as intelligence sharing.

In 1992 and 1993, we reported on the coordination of domestic narcotics operations and intelligence activities. We pointed out that there were many Federal law enforcement agencies participating in counternarcotics activities and that each had its own intelligence organization. The agencies with primary responsibility for drug intelligence activities were DEA, the Customs Service, and the Coast Guard. In addition, the Defense Department provided drug intelligence to support these agencies' efforts.

In May 1995, we reported that some interagency coordination problems had adversely affected Federal fugitive apprehension efforts. For example, we cited the FBI's and the Marshals Service's failure to participate on each other's fugitive task forces; disagreements over responsibility for prison escapes involving possible con-

spiracy charges; and failure, at times, to cooperate with the apprehension of other countries' fugitives.

During the course of our review, Justice's Office of Investigative Agency Policies, an inter-agency coordinating group, began to take action to resolve these issues.

Mr. Chairman, I would like to add a comment about a few recommendations made by the Vice President's National Performance Review that are relevant to our discussion this morning.

The September 1993 NPR report entitled, "Creating a Government That Works Better and Costs Less," included a section on eliminating duplication. One action item in this section suggested transferring the law enforcement functions of DEA and ATF to the FBI. The report also raised concerns about duplication of drug intelligence systems and overlap and duplication in law enforcement training facilities.

As I mentioned earlier, GAO has not taken a position on whether DEA and ATF should be consolidated into the FBI. However, our work supports NPR's recommendation to eliminate duplication and improve coordination in Federal drug intelligence among agencies such as Justice, Treasury, and Defense. We have not yet studied the issue of duplication in law enforcement training facilities and, therefore, are not taking a position on that recommendation.

Mr. Chairman, this concludes my statement. Dr. McPhail and I would welcome any questions from you or the subcommittee.

[The prepared statement of Mr. Rabkin follows:]

PREPARED STATEMENT OF NORMAN J. RABKIN, DIRECTOR, ADMINISTRATION OF JUSTICE ISSUES, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you to discuss the composition and salary costs of federal law enforcement personnel with investigative authority in certain federal agencies. You recently asked us to provide information on which agencies are authorized to investigate criminal violations of federal law, the specific authorities of those agencies, the extent of any jurisdictional overlap and/or duplication of efforts, and the number and annual cost of law enforcement personnel in these agencies. Today, I will discuss

-- preliminary information we have obtained on federal agencies with personnel employed in certain occupational series with criminal law investigative responsibilities, the number of these personnel, and their associated salary costs; and

-- previous information we have developed on jurisdictional overlap and/or duplication of efforts among the agencies.

Over the next few months, we plan to develop and administer a survey to all agencies with federal law enforcement personnel to verify the number of personnel and associated salary and benefit costs. We also plan to provide the Subcommittee a description of the types of federal criminal violations the agencies are responsible for investigating and the authorities under which they investigate possible federal criminal violations.

SCOPE AND METHODOLOGY

In 1990, the congressionally mandated National Advisory Commission on Law Enforcement reported its views on the pay, benefits, and other issues related to the recruitment, retention, and morale of federal law enforcement officers. The scope of the study was limited to those occupations meeting the definition of "law enforcement officer" in the special law enforcement retirement provisions at Title 5, U.S. Code sections 8331(20) and 8401(17). Both sections define "law enforcement officer" as including, for example, an employee whose duties are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.

We identified the universe of federal law enforcement officers from a slightly broader perspective. Using the U.S. Office of Personnel Management's (OPM) September 1993 Handbook of Occupational Groups and Series and Central Personnel Data File (CPDF) records as of March 31, 1995, we identified a universe of 65,194 federal employees who are to be eligible for special law enforcement retirement benefits[1] and/or are eligible for special law enforcement pay[2] and who were assigned to 1 of 173 occupational

[1]Under special retirement coverage afforded "law enforcement officers" in chapter 83 or 84 of Title 5 of the U.S. Code, law enforcement officers, among others, generally may retire earlier and are covered by a more generous benefit formula than other federal employees.

[2]For the purposes of certain premium pay provisions, 5 U.S. Code section 5541(3) provides that the term "law enforcement officer" means an employee who meets the definition of "law enforcement officer" under the retirement provisions of section 8331(20) or

series. With the assistance of Subcommittee staff, we identified the following nine series that significantly involved investigative work:

-- Park Ranger;
-- Police;
-- General Inspection, Investigation, and Compliance;
-- Compliance Inspection and Support;
-- Criminal Investigating;
-- Game Law Enforcement;
-- Immigration Inspection;
-- Customs Patrol Officer; and
-- Border Patrol Agent.

Appendix I contains OPM's definitions of these series.

We were not able to include employees of the U.S. Postal Service and the U.S. Capitol Police Force because these personnel are not in the CPDF. We plan to include information on these employees in our final report. In addition, because we understood the Subcommittee's interest to be in federal civilian employees, we did not include information on military police and personnel working

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8401(17). In addition, the section 5541(3) definition also includes employees who are not subject to such retirement provisions but hold positions that OPM determines would satisfy certain statutory criteria. This category includes Foreign Service security personnel, the U.S. Park Police, and the U.S. Secret Service Uniformed Division. Certain law enforcement officers who have transferred to supervisory or administrative positions and special agents in the Diplomatic Security Service are also included under this definition but were not within the scope of our review.

under contract for federal agencies. As agreed with the Subcommittee, we did not include 28 Bureau of Prisons (BOP) investigative employees because these employees are involved only in internal investigations of inmate misconduct and other activities related to prison security.

We also obtained annual salary costs for these employees by using the CPDF.[3]

Our data on both numbers of employees and salaries are from the CPDF, which receives its data from the agencies. Due to time constraints, we have not yet verified the number of personnel or the salary costs with the agencies to confirm that CPDF data are correct.

To address the Subcommittee's request for information on jurisdictional overlap and/or duplication of efforts, we reviewed previous GAO and National Performance Review (NPR) reports and have summarized our findings in this statement.

CRIMINAL INVESTIGATIVE AGENCIES, PERSONNEL, AND SALARY COSTS

The federal criminal justice system typically deals with criminal activity occurring in more than one state or criminal activity affecting matters of paramount federal interest, such as federal

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[3]We used the adjusted basic pay, which is the sum of an employee's rate of basic pay and any interim geographic adjustment, locality comparability payment, and/or special pay adjustment for law enforcement officers.

taxation, civil rights, international trade, securities, narcotics, national defense, federal grant programs, federal contracting, and federally insured financial institutions. Federal criminal law prosecution authority is vested in the Attorney General and is exercised through the prosecutors of the Department of Justice (DOJ) and the 94 U.S. Attorneys Offices. An early stage in any criminal law enforcement system is the detection and investigation of a possible crime. Agencies that report to the Attorney General and whose investigative efforts support the prosecutors include the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA). In addition, many other agencies outside DOJ, such as the Internal Revenue Service (IRS), the Customs Service, and the Bureau of Alcohol, Tobacco and Firearms (ATF) also provide major investigative efforts in the federal criminal law enforcement process.

We identified 33 federal agencies with 65,194 employees covered by either law enforcement retirement or special pay as of March 31, 1995. We then identified 32 of the agencies[4] with 41,342 employees[5] who were also classified in 1 of the 9 occupational series

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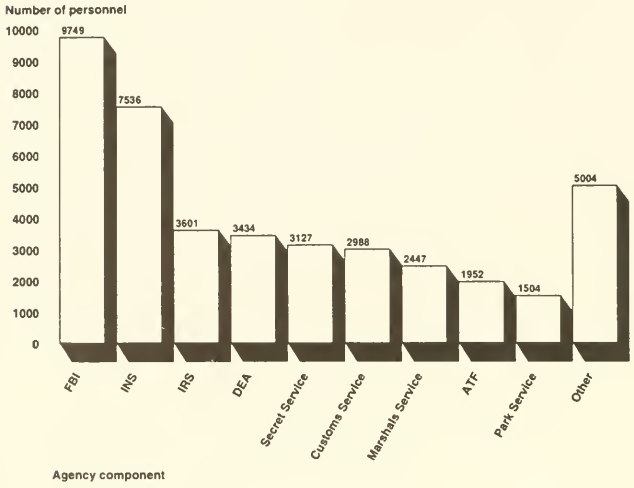
[4]The Peace Corps had only two employees who met these criteria; they were not classified in one of the nine series.

[5]We excluded a total of 23,852 employees from our analysis. BOP (a component of DOJ) had 22,277 employees classified in such series as Correctional Institution Administration, Correctional Officer, Computer Specialist, Accounting Technician, and Education and Vocational Training; BOP also had 28 employees in the investigative series who are involved solely in investigating inmate misconduct and related prison security matters. The remaining 1,545 employees are scattered throughout the agencies and employed in noninvestigative job series, such as Miscellaneous Clerk and Assistant and Supply Clerical and Technician.

significantly involved in investigative work. Adjusted basic pay for the employees at the 32 agencies as of March 31, 1995, totaled about $2.2 billion annually. Over 56 percent, or 23,295 individuals, were employed by DOJ at an annual salary cost of about $1.2 billion. An additional 11,731, or over 28 percent, were employed by Treasury at an annual salary cost of about $649 million; and 2,344, nearly 6 percent, were employed by the Department of the Interior at an annual salary cost of about $88 million. The remaining 3,972, or about 10 percent, were employed by the remaining 29 agencies at an annual salary cost of about $217 million. (See apps. II and III.)

As figure 1 shows, the agency components with the most personnel were the FBI; Immigration and Naturalization Service (INS); IRS; DEA; Secret Service; Customs Service; U.S. Marshals Service; ATF; and National Park Service. Together, these employees represent about 88 percent of the federal law enforcement personnel in the 32 agencies.

Figure 1: Number of Federal Law Enforcement Personnel in the Nine Occupational Series, by Agency Component, as of March 31, 1995



Note: See appendix II for details on other agencies.

Source: Office of Personnel Management, CPDF, March 31, 1995.

Across the agencies, the largest number of investigative personnel, 31,531, or over 76 percent, were employed in the Criminal Investigating series. An additional 4,461, or almost 11 percent, were employed in the Border Patrol Agent series; and 1,968, or almost 5 percent, were employed in the Police series. The remaining 3,382, or over 8 percent, were employed in the remaining occupational series. (See app. II.)

OVERLAP AND/OR DUPLICATION

Since 1990, we have issued several reports addressing the issue of federal law enforcement coordination and duplication of investigative efforts. We have generally supported the need for greater coordination of the numerous agencies involved in federal law enforcement. The decentralized operations, including the 94 U.S. Attorneys Offices and the various investigative agencies within DOJ and Treasury, complicate efforts by DOJ to coordinate and direct a variety of initiatives and programs to fight crime. However, we have not taken a position as to whether or to what extent the various law enforcement agencies should be consolidated.

In 1990,[6] we reported that DEA and the FBI were carrying out their drug law enforcement responsibilities independent of each other. They were independently developing investigative strategies and priorities, operating separate intelligence systems, and using different systems for reporting and measuring their performance. The agencies have since undertaken several joint initiatives designed to enhance coordination, such as efforts to enhance intelligence sharing. Some initiatives were more successful than others. Agency officials acknowledged that day-to-day informal coordination had been more successful than some of their formal coordination efforts.

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[6]Justice Department: Coordination Between DEA and the FBI (GAO/GGD-90-59, Mar. 21, 1990).

In 1992[7] and 1993,[8] we reported on the coordination of domestic narcotics operations and intelligence activities. We explained that there were many federal law enforcement agencies participating in counternarcotics activities and that each had its own intelligence organization. The agencies with primary responsibility for intelligence activities were DEA, the Customs Service, and the Coast Guard. In addition, DOD provided drug intelligence to support these agencies' efforts. Our review of intelligence reports from these agencies showed duplication among several federal organizations with overlapping areas of responsibility. For example, in April 1992 we reported on duplicative analyses among five agencies analyzing the movement of illegal drugs into Mexico by aircraft.

Both the Department of Commerce's Export Administration and the Customs Service are responsible for investigating violations of export controls. We reported in 1993[9] that although these authorities and the agencies' enforcement tools were complementary, poor coordination between the agencies was impeding investigation efforts and adversely affecting individual cases. The agencies concluded agreements in 1993 to improve their cooperation efforts.

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[7]Drug Control: Inadequate Guidance Results in Duplicate Intelligence Production Efforts (GAO/NSIAD-92-153, Apr. 14, 1992).

[8]Drug Control: Coordination of Intelligence Activities (GAO/GGD-93-83BR, Apr. 2, 1993).

[9]Export Control: Actions Needed to Improve Enforcement (GAO/NSIAD-94-28, Dec. 30, 1993).

In our May 1995, report[10] on federal fugitive apprehension, we reported that some interagency coordination problems had adversely affected fugitive apprehension efforts. For example, we cited the FBI's and the Marshals Service's failure to participate on each other's fugitive task forces; disagreements over responsibility for prison escapes involving possible conspiracy charges; and failure, at times, to cooperate with the apprehension of other countries' fugitives. The FBI and the Marshals Service have taken actions to improve coordination and eliminate duplication. Also, in the area of fugitive apprehensions, DOJ's Office of Investigative Agency Policies (OIAP) is to help resolve coordination problems and determine whether fugitive responsibilities are properly aligned among agencies.

The National Performance Review (NPR) Raised Concerns in Several Areas

In September 1993 the NPR[11] raised concerns about duplication. One action item suggested transferring the functions of the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco and Firearms to the Federal Bureau of Investigation. We generally agree with and support the need for greater coordination of the numerous agencies involved in federal law enforcement. However, we

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[10]Federal Fugitive Apprehension: Agencies Taking Action to Improve Coordination and Cooperation (GAO/GGD-95-75, May 2, 1995).

[11]From Red Tape to Results: Creating a Government That Works Better and Costs Less, report of the National Performance Review, Vice President Al Gore, Sept. 7, 1993.

have not taken a position as to whether the various law enforcement agencies should be consolidated into one or more agencies.

In addition, NPR raised concerns about duplication of drug intelligence systems and overlap and duplication in law enforcement training facilities. In our December 1994 report[12] on the NPR, we generally agreed with NPR's recommendation to eliminate duplication and improve coordination in federal drug intelligence among agencies such as Justice, Treasury, and Defense. As of December 1994, DOJ and Treasury had taken some actions on this recommendation. For example, DOJ had created the Office of Investigative Agency Policies (OIAP) to increase efficiency and coordinate specified activities. In February 1994, OIAP noted that agencies had not maximized information-sharing and coordination and recommended actions to DOJ and Treasury to enhance both. None of these actions had been taken as of December 1994. In addition, according to Treasury officials, they had been cooperating with DOJ in its efforts and also had allowed more agencies to participate in the financial information and anti-money-laundering services of the Financial Crimes Enforcement Network.

With regard to the NPR concerns about overlap and duplication in law enforcement training facilities, we have not studied this issue. However, in commenting on the NPR recommendation that duplication be reduced, we agreed that further examination could prove worthwhile. We acknowledged that law enforcement agencies

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[12]Management Reform: Implementation of the National Performance Review's Recommendations (GAO/OCG-95-1, Dec. 5, 1994).

frequently have overlapping jurisdictions and perform functions requiring similar or identical knowledge and skills. According to Treasury officials, the concerns over overlap and duplication in training facilities have been addressed through the Federal Law Enforcement Training Center (FLETC). Governed by an eight-member board representing participating agencies, including DOJ, Treasury, Interior, and the General Services Administration, FLETC provides common training of law enforcement investigators, and individual participating agencies are also allowed to do specialized training. Although over 70 agencies participate in FLETC, several agencies--including the FBI--do not participate. The FBI maintains its own training facilities. As of December 1994, DOJ had not addressed this issue.

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Mr. Chairman, this completes my statement. I would be pleased to answer any questions you or other Members of the Subcommittee may have.

DEFINITIONS OF JOB SERIES

Following are OPM's definitions of the nine occupational series included in our review. These definitions were obtained from OPM's September 1993 Handbook of Occupational Groups and Series.

GS-025--PARK RANGER SERIES

This series includes positions the duties of which are to supervise, manage, and/or perform work in the conservation and use of Federal park resources. This involves functions such as park conservation; natural, historical, and cultural resource management; and the development and operation of interpretive and recreational programs for the benefit of the visiting public. Duties characteristically include assignments such as: forest and structural fire control; protection of property from natural or visitor related depredation; dissemination to visitors of general, historical, or scientific information; folk-art and craft demonstration; control of traffic and visitor use of facilities; enforcement of laws and regulations; investigation of violations, complaints, trespass/encroachment, and accidents; search and rescue missions; and management activities related to resources such as wildlife, lakeshores, seashores, forests, historic buildings, battlefields, archeological properties, and recreation areas.

GS-083--POLICE SERIES

This series includes positions the primary duties of which are the performance or supervision of law enforcement work in the preservation of the peace; the prevention, detection, and investigation of crimes; the arrest or apprehension of violators; and the provision of assistance to citizens in emergency situations, including the protection of civil rights. The purpose of police work is to assure compliance with Federal, State, county, and municipal laws and ordinances, and agency rules and regulations pertaining to law enforcement work.

GS-1801--GENERAL INSPECTION, INVESTIGATION, AND COMPLIANCE SERIES

This series includes positions the primary duties of which are to administer, coordinate, supervise or perform inspectional, investigative, analytical, or advisory work to assure understanding of and compliance with Federal laws, regulations, or other mandatory guidelines when such work is not more appropriately classifiable in another series either in the investigation group, GS-1800 or in another occupational series.

GS-1802--COMPLIANCE INSPECTION AND SUPPORT SERIES

This series includes positions which perform or supervise inspectional or technical support work in assuring compliance with or enforcement of Federal laws, regulations,or other mandatory

guidelines and which are not classifiable in another, more specific, occupational series. The work requires a knowledge of prescribed procedures, established techniques, directly applicable guidelines, and pertinent characteristics of regulated items or activities.

GS-1811--CRIMINAL INVESTIGATING SERIES

This series includes positions that involve planning and conducting investigations relating to alleged or suspected violations of criminal laws. These positions require primarily a knowledge of investigative techniques and a knowledge of the laws of evidence, the rules of criminal procedure, and precedent court decisions concerning admissibility of evidence, constitutional rights, search and seizure and related issues; the ability to recognize, develop and present evidence that reconstructs events, sequences, and time elements, and establishes relationships, responsibilities, legal liabilities, conflicts of interest, in a manner that meets requirements for presentation in various legal hearings and court proceedings; and skill in applying the techniques required in performing such duties as maintaining surveillance, performing undercover work, and advising and assisting the U.S. Attorney in and out of court.

GS-1812--GAME LAW ENFORCEMENT SERIES

This series includes all classes of positions the duties of which are to administer, coordinate, supervise, or perform inspectional, investigative, or advisory work to assure public understanding of and compliance with Federal statutes and regulations for the conservation of fish and wildlife resources; in obtaining information on the general condition of such resources; and in the conduct of operations for the abatement of damage to agricultural crops caused by unusual concentrations of wildlife.

GS-1816--IMMIGRATION INSPECTION SERIES

This series includes inspection or examining work involving the enforcement and administration of laws relating to the right of persons to enter, reside in, or depart from the United States, Puerto Rico, Guam, and the Virgin Islands. Inspection work requires knowledge of laws, regulations, procedures and policies concerning entry of persons to the United States and eligibility for various benefits under the immigration laws; ability to acquire information about citizenship and status through interviewing persons and examining documents; ability to make sound decisions to enter or exclude aliens from the United States and to determine eligibility for benefits under the immigration laws; and sound judgment in detaining or apprehending persons at the point of entry who are violating immigration or other laws.

GS-1884--CUSTOMS PATROL OFFICER SERIES

This series includes positions involved in law enforcement concerned with (1) detecting and preventing the smuggling into or out of the United States of contraband and controlled substances and materials; (2) detecting and preventing theft, pilferage, or diversion of merchandise, cargo, or other materials from areas under Customs jurisdiction or custody; and (3) detecting and apprehending suspected violators of the criminal provisions of the Customs laws of the United States. Enforcement duties are carried out by patrol and surveillance at, around, and between international ports of entry of the United States. Such work requires knowledge and understanding of Customs and related laws, instructions, and precedent decisions; ability to evaluate information; ability to make timely decisions and apply judgment in taking prompt and appropriate actions in all situations and the ability to effectively use basic investigative and law enforcement procedures to enforce the Customs laws and other laws which the Customs Patrol Officer may be called upon to enforce or to assist in enforcing.

GS-1896--BORDER PATROL AGENT SERIES

This series includes positions involved in enforcement work concerned with (1) detecting and preventing the smuggling or illegal entry of aliens into the United States; (2) detecting and apprehending aliens in violation of the conditions under which they were admitted; (3) detecting and apprehending aliens at interior points in the United States who entered illegally; (4) detecting and apprehending aliens falsely claiming United States citizenship or legal status; (5) detecting and apprehending producers, vendors and users of counterfeit, altered and genuine documents used to circumvent the immigration and nationality laws of the United States; and (6) enforcing criminal provisions of the immigration and nationality laws and regulations of the United States. Such work requires knowledge and understanding of the statutes, regulations, instructions and precedent decisions pertaining to the enforcement of the immigration and nationality laws, ability to evaluate information rapidly, make timely decisions and take prompt and appropriate actions, and the ability to use effectively basic investigative and law enforcement procedures to enforce the immigration and nationality laws and other laws which the Border Patrol Agent may be called upon to enforce or assist in enforcing.

APPENDIX II

NUMBER OF EMPLOYEES IN THE NINE JOB SERIES, BY AGENCY, AS OF MARCH 31, 1995

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Department of Justice										
Federal Bureau of Investigation	0	0	0	0	9,749	0	0	0	0	9,749
Immigration & Naturalization Service	0	0	457	949	1,537	0	132	0	4,461	7,536
Drug Enforcement Administration	0	0	0	0	3,434	0	0	0	0	3,434
U.S. Marshals Service	0	0	0	36	2,411	0	0	0	0	2,447
Inspector General	0	0	0	0	117	0	0	0	0	117
Executive Office U.S. Attorneys & Office U.S Attorney	0	0	0	0	11	0	0	0	0	11
Offices, Boards, & Divisions	0	0	0	0	1	0	0	0	0	1
Subtotal	0	0	457	985	17,260	0	132	0	4,461	23,295
Department of the Treasury										
Internal Revenue Service	0	0	0	0	3,601	0	0	0	0	3,601
U.S. Secret Service	0	1,045	0	33	2,049	0	0	0	0	3,127
U.S. Customs Service	0	0	199	0	2,754	0	0	35	0	2,988
Bureau of Alcohol, Tobacco & Firearms	0	0	0	0	1,952	0	0	0	0	1,952
Inspector General	0	0	0	0	40	0	0	0	0	40

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Federal Law Enforcement Training Center	0	0	0	0	17	0	0	0	0	17
Departmental Offices	0	0	0	0	6	0	0	0	0	6
Subtotal	0	1,045	199	33	10,419	0	0	35	0	11,731
Department of the Interior										
National Park Service	867	617	0	0	20	0	0	0	0	1,504
Bureau of Indian Affairs	0	281	0	0	93	0	0	0	0	374
U S Fish & Wildlife Service	0	0	1	1	0	223	0	0	0	225
Bureau of Land Management	0	0	141	0	57	0	0	0	0	198
Inspector General	0	0	0	0	42	0	0	0	0	42
Office of the Secretary	0	0	0	0	1	0	0	0	0	1
Subtotal	867	898	142	1	213	223	0	0	0	2,344
Department of the Navy										
Field Offices	0	0	0	0	944	0	0	0	0	944
Naval Sea Systems Command	0	0	0	0	15	0	0	0	0	15
U S Pacific Fleet, Commander in Chief	0	4	0	0	0	0	0	0	0	4
Naval Education & Training Command	0	4	0	0	0	0	0	0	0	4
U S Atlantic Fleet, Commander in Chief	0	2	0	0	0	0	0	0	0	2
Chief, Naval Operations	0	0	0	0	1	0	0	0	0	1
Naval Air Systems Command	0	1	0	0	0	0	0	0	0	1
Naval Supply Systems Command	0	1	0	0	0	0	0	0	0	1

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Naval Security Group Command	0	0	0	0	1	0	0	0	0	1
U.S Marine Corps	0	1	0	0	0	0	0	0	0	1
Subtotal	0	13	0	0	961	0	0	0	0	974
Department of Agriculture										
U.S Forest Service	0	0	1	38	151	0	0	0	0	190
Inspector General	0	0	1	0	258	0	0	0	0	259
Subtotal	0	0	2	38	409	0	0	0	0	449
Department of Defense										
Inspector General	0	0	0	0	388	0	0	0	0	388
Washington Headquarters Services	0	0	0	0	4	0	0	0	0	4
Defense Logistics Agency	0	1	0	0	0	0	0	0	0	1
Subtotal	0	1	0	0	392	0	0	0	0	393
Department of Health and Human Services										
Office of the Secretary	0	0	0	0	236	0	0	0	0	236
Food & Drug Administration	0	0	0	0	111	0	0	0	0	111
Subtotal	0	0	0	0	347	0	0	0	0	347
Department of Labor										
Inspector General	0	0	0	0	150	0	0	0	0	150
Office of the American Workplace	0	0	127	0	0	0	0	0	0	127
Subtotal	0	0	127	0	150	0	0	0	0	277

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Department of Commerce										
National Oceanic & Atmospheric Administration	0	0	0	0	1	112	0	0	0	113
U.S. Export Administration	0	0	0	0	67	0	0	0	0	67
Inspector General	0	0	0	0	23	0	0	0	0	23
Subtotal	0	0	0	0	91	112	0	0	0	203
Environmental Protection Agency	0	0	0	0	199	0	0	0	0	199
Department of the Air Force										
Office of Special Investigations	0	0	0	0	160	0	0	0	0	160
Civilian Personnel Management Center	0	0	0	0	8	0	0	0	0	8
Air Force Material Command	0	0	0	0	5	0	0	0	0	5
Air National Guard Units (Title 5)	0	0	0	0	2	0	0	0	0	2
Subtotal	0	0	0	0	175	0	0	0	0	175
General Services Administration										
Public Buildings Service	0	1	0	0	66	0	0	0	0	67
Inspector General	0	0	0	0	65	0	0	0	0	65
Subtotal	0	1	0	0	131	0	0	0	0	132
Federal Deposit Insurance Corporation	0	0	28	0	92	0	0	0	0	120
Department of Housing & Urban Development										
Inspector General	0	0	0	0	106	0	0	0	0	106

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Department of Education										
Inspector General	0	0	0	0	83	0	0	0	0	83
Department of Transportation										
Inspector General	0	0	0	0	59	0	0	0	0	59
U.S Coast Guard	0	0	0	0	20	0	0	0	0	20
National Highway Traffic Safety Administration	0	0	0	0	4	0	0	0	0	4
Subtotal	0	0	0	0	83	0	0	0	0	83
Department of the Army										
Criminal Investigation Command	0	0	0	0	61	0	0	0	0	61
Missile Command	0	0	0	0	6	1	0	0	0	7
Training & Doctrine Command	0	5	0	0	0	0	0	0	0	5
Test & Evaluation Command	0	0	0	0	3	0	0	0	0	3
Forces Command	0	0	0	0	2	0	0	0	0	2
Army Medical Command	0	0	0	0	1	0	0	0	0	1
Military District of Washington	0	0	0	0	1	0	0	0	0	1
Subtotal	0	5	0	0	74	1	0	0	0	80
Department of Veterans Affairs										
Inspector General	0	0	0	0	60	0	0	0	0	60
Health Administration	0	5	0	0	0	0	0	0	0	5
Subtotal	0	5	0	0	60	0	0	0	0	65
Department of Energy	0	0	0	0	58	0	0	0	0	58

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Headquarters, National Aeronautics & Space Administration	0	0	0	0	48	0	0	0	0	48
Department of State	0	0	0	0	44	0	0	0	0	44
Small Business Administration	0	0	0	0	39	0	0	0	0	39
Railroad Retirement Board	0	0	0	0	33	0	0	0	0	33
Securities & Exchange Commission	0	0	0	0	21	0	0	0	0	21
Federal Emergency Management Agency	0	0	0	0	12	0	0	0	0	12
U.S. Office of Personnel Management	0	0	0	0	10	0	0	0	0	10
U.S. Information Agency	0	0	0	0	8	0	0	0	0	8
National Science Foundation	0	0	0	0	4	0	0	0	0	4
Nuclear Regulatory Commission	0	0	0	0	3	0	0	0	0	3
Agency for International Development	0	0	0	0	2	0	0	0	0	2
Pension Benefit Guaranty Corporation	0	0	0	0	2	0	0	0	0	2
National Archives and Records Administration	0	0	0	0	2	0	0	0	0	2
Total (Percent)	867 (2.10)	1,968 (4.76)	955 (2.31)	1,057 (2.56)	31,531 (76.27)	336 (.81)	132 (.32)	35 (.08)	4,461 (10.79)	41,342

aGeneral Inspection, Investigation, and Compliance.

APPENDIX II

bCompliance Inspection and Support.

cPercentages rounded.

Source: Office of Personnel Management, CPDF, March 31, 1995.

APPENDIX II

ANNUAL ADJUSTED BASIC PAY OF EMPLOYEES IN THE NINE JOB SERIES, AS OF MARCH 31, 1995

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Department of Justice										
Federal Bureau of Investigation	$0	$0	$0	$0	$597,668,758	$0	$0	$0	$0	$597,668,758
Immigration & Naturalization Service	0	0	24,264,203	29,631,393	81,073,130	0	5,496,398	0	168,588,178	309,053,302
Drug Enforcement Administration	0	0	0	0	201,365,322	0	0	0	0	201,365,322
U S Marshals Service	0	0	0	1,093,761	113,021,350	0	0	0	0	114,115,111
Inspector General	0	0	0	0	7,237,245	0	0	0	0	7,237,245
Executive Office U.S. Attorneys & Office U S. Attorney	0	0	0	0	824,124	0	0	0	0	824,124
Offices, Boards, & Divisions	0	0	0	0	93,166	0	0	0	0	93,166
Subtotal	0	0	24,264,203	30,725,154	1,001,283,095	0	5,496,398	0	168,588,178	1,230,357,028
Department of the Treasury										
Internal Revenue Service	0	0	0	0	206,457,375	0	0	0	0	206,457,375
U S Customs Service	0	0	11,270,331	0	155,334,022	0	0	1,443,919	0	168,048,272
U S. Secret Service	0	42,560,193	0	1,275,975	118,488,668	0	0	0	0	162,324,836
Bureau of Alcohol, Tobacco & Firearms	0	0	0	0	108,583,822	0	0	0	0	108,583,822

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Inspector General	0	0	0	0	2,430,426	0	0	0	0	2,430,426
Federal Law Enforcement Training Center	0	0	0	0	1,115,770	0	0	0	0	1,115,770
Departmental Offices	0	0	0	0	450,595	0	0	0	0	450,595
Subtotal	0	42,560,193	11,270,331	1,275,975	592,860,678	0	0	1,443,919	0	649,411,096
Department of the Interior										
National Park Service	27,125,474	27,052,403	0	0	790,824	0	0	0	0	54,968,701
Bureau of Indian Affairs	0	8,163,243	0	0	3,943,162	0	0	0	0	12,106,405
U S Fish & Wildlife Service	0	0	30,613	28,121	0	11,436,615	0	0	0	11,495,349
Bureau of Land Management	0	0	4,195,189	0	2,849,176	0	0	0	0	7,044,365
Inspector General	0	0	0	0	2,491,849	0	0	0	0	2,491,849
Office of the Secretary	0	0	0	0	64,986	0	0	0	0	64,986
Subtotal	27,125,474	35,215,646	4,225,802	28,121	10,139,997	11,436,615	0	0	0	88,171,655
Department of the Navy										
Field Offices	0	0	0	0	50,039,378	0	0	0	0	50,039,378
Naval Sea Systems Command	0	0	0	0	393,164	0	0	0	0	393,164
U S Pacific Fleet, Commander in Chief	0	111,479	0	0	0	0	0	0	0	111,479
Naval Education & Training Command	0	127,162	0	0	0	0	0	0	0	127,162
U.S Atlantic Fleet, Commander in Chief	0	31,245	0	0	0	0	0	0	0	31,245

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Chief, Naval Operations	0	0	0	0	24,038	0	0	0	0	24,038
Naval Air Systems Command	0	32,250	0	0	0	0	0	0	0	32,250
Naval Supply Systems Command	0	25,628	0	0	0	0	0	0	0	25,628
Naval Security Group Command	0	0	0	0	32,889	0	0	0	0	32,889
U.S. Marine Corps	0	32,847	0	0	0	0	0	0	0	32,847
Subtotal	0	360,611	0	0	50,489,469	0	0	0	0	50,850,080
Department of Agriculture										
U.S. Forest Service	0	0	52,590	1,215,383	7,182,960	0	0	0	0	8,450,933
Inspector General	0	0	47,667	0	13,944,629	0	0	0	0	13,992,296
Subtotal	0	0	100,257	1,215,383	21,127,589	0	0	0	0	22,443,229
Department of Defense										
Inspector General	0	0	0	0	21,913,435	0	0	0	0	21,913,435
Washington Headquarters Services	0	0	0	0	158,148	0	0	0	0	158,148
Defense Logistics Agency	0	25,612	0	0	0	0	0	0	0	25,612
Subtotal	0	25,612	0	0	22,071,583	0	0	0	0	22,097,195
Department of Health and Human Services										
Office of the Secretary	0	0	0	0	14,216,152	0	0	0	0	14,216,152
Food & Drug Administration	0	0	0	0	6,272,832	0	0	0	0	6,272,832
Subtotal	0	0	0	0	20,488,984	0	0	0	0	20,488,984

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Department of Labor										
Inspector General	0	0	0	0	9,517,246	0	0	0	0	9,517,246
Office of the American Workplace	0	0	7,109,206	0	0	0	0	0	0	7,109,206
Subtotal	0	0	7,109,206	0	9,517,246	0	0	0	0	16,626,452
Department of Commerce										
National Oceanic & Atmospheric Administration	0	0	0	0	44,063	5,686,754	0	0	0	5,730,817
U.S. Export Administration	0	0	0	0	4,144,038	0	0	0	0	4,144,038
Inspector General	0	0	0	0	1,237,784	0	0	0	0	1,237,784
Subtotal	0	0	0	0	5,425,885	5,686,754	0	0	0	11,112,639
Environmental Protection Agency	0	0	0	0	11,091,720	0	0	0	0	11,091,720
Department of the Air Force										
Office of Special Investigations	0	0	0	0	8,008,295	0	0	0	0	8,008,295
Civilian Personnel Management Center	0	0	0	0	217,893	0	0	0	0	217,893
Material Command	0	0	0	0	199,668	0	0	0	0	199,668
Air National Guard Units (Title 5)	0	0	0	0	69,492	0	0	0	0	69,492
Subtotal	0	0	0	0	8,495,348	0	0	0	0	8,495,348
General Services Administration										

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigatng (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Public Buildings Service	0	26,679	0	0	2,345,473	0	0	0	0	2,372,152
Inspector General	0	0	0	0	4,069,729	0	0	0	0	4,069,729
Subtotal	0	26,679	0	0	6,415,202	0	0	0	0	6,441,881
Federal Deposit Insurance Corporation	0	0	1,990,724	0	6,608,438	0	0	0	0	8,599,162
Department of Housing & Urban Development Inspector General	0	0	0	0	6,025,704	0	0	0	0	6,025,704
Department of Education Inspector General	0	0	0	0	4,638,672	0	0	0	0	4,638,672
Department of Transportation										
Inspector General	0	0	0	0	3,387,260	0	0	0	0	3,387,260
U S Coast Guard	0	0	0	0	1,006,698	0	0	0	0	1,006,698
National Highway Traffic Safety Administration	0	0	0	0	297,460	0	0	0	0	297,460
Subtotal	0	0	0	0	4,691,418	0	0	0	0	4,691,418
Department of the Army										
Criminal Investigation Command	0	0	0	0	2,788,308	0	0	0	0	2,788,308
Missile Command	0	0	0	0	273,735	34,665	0	0	0	308,400
Training & Doctrine Command	0	141,423	0	0	0	0	0	0	0	141,423
Test & Evaluation Command	0	0	0	0	106,794	0	0	0	0	106,794
Forces Command	0	0	0	0	33,132	0	0	0	0	33,132

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Army Medical Command	0	0	0	0	30,263	0	0	0	0	30,263
Military District of Washington	0	0	0	0	43,356	0	0	0	0	43,356
Subtotal	0	141,423	0	0	3,275,588	34,665	0	0	0	3,451,676
Department of Veterans Affairs										
Inspector General	0	0	0	0	3,014,849	0	0	0	0	3,014,849
Health Administration	0	138,349	0	0	0	0	0	0	0	138,349
Subtotal	0	138,349	0	0	3,014,849	0	0	0	0	3,153,198
Department of Energy	0	0	0	0	3,311,389	0	0	0	0	3,311,389
Headquarters, National Aeronautics & Space Administration	0	0	0	0	2,888,855	0	0	0	0	2,888,855
Department of State	0	0	0	0	2,424,257	0	0	0	0	2,424,257
Small Business Administration	0	0	0	0	2,200,174	0	0	0	0	2,200,174
Railroad Retirement Board	0	0	0	0	1,656,454	0	0	0	0	1,656,454
Securities & Exchange Commission	0	0	0	0	1,599,385	0	0	0	0	1,599,385
Federal Emergency Management Agency	0	0	0	0	737,331	0	0	0	0	737,331
U.S. Office of Personnel Management	0	0	0	0	594,531	0	0	0	0	594,531
U.S. Information Agency	0	0	0	0	433,509	0	0	0	0	433,509
National Science Foundation	0	0	0	0	95,701	0	0	0	0	95,701

APPENDIX II

Agency	Park Ranger (025)	Police (083)	General Inspectiona (1801)	Compliance Inspectionb (1802)	Criminal Investigating (1811)	Game Law (1812)	Immigration Inspection (1816)	Customs Patrol Officer (1884)	Border Patrol Agent (1896)	Total
Nuclear Regulatory Commission	0	0	0	0	344,287	0	0	0	0	344,287
Agency for International Development	0	0	0	0	140,118	0	0	0	0	140,118
Pension Benefit Guaranty Corporation	0	0	0	0	94,157	0	0	0	0	94,157
National Archives and Records Administration	0	0	0	0	51,557	0	0	0	0	51,557
Total (Percent[c])	$27,125,474 (1.24)	$78,468,513 (3.59)	$48,960,523 (2.24)	$33,244,633 (1.52)	$1,804,233,170 (82.58)	$17,158,034 (.79)	$5,496,398 (.25)	$1,443,919 (.07)	$168,588,178 (7.72)	$2,184,718,842

aGeneral Inspection, Investigation, and Compliance.

bCompliance Inspection and Support.

cPercentages rounded.

Source: Office of Personnel Management, CPDF, March 31, 1995.

RELATED GAO PRODUCTS

Drug War: Observations on the U.S. International Drug Control Strategy (GAO/T-NSIAD-95-182, June 27, 1995).

Federal Fugitive Apprehension: Agencies Taking Action to Improve Coordination and Cooperation (GAO/GGD-95-75, May 2, 1995).

Management Reform: Implementation of the National Performance Review's Recommendations (GAO/OCG-95-1, Dec. 5, 1994).

Export Controls: Actions Needed to Improve Enforcement (GAO/NSIAD-94-28, Dec. 30, 1993).

Management Reform: GAO's Comments on the National Performance Review's Recommendations (GAO/OCG-94-1, Dec. 3, 1993).

Drug Control: The Office of National Drug Control Policy--Strategies Need Performance Measures (GAO/T-GGD-94-49, Nov. 15, 1993).

Environmental Crime: Issues Related to Justice's Criminal Prosecution of Environmental Offenses (GAO/T-GGD-94-33, Nov. 3, 1993).

Drug Control: Reauthorization of the Office of National Drug Control Policy (GAO/T-GGD-94-7, Oct. 5, 1993).

Drug Control: Reauthorization of the Office of National Drug Control Policy (GAO/GGD-93-144, Sept. 29, 1993).

Customs and INS: Dual Management Structure for Border Inspections Should Be Ended (GAO/GGD-93-111, June 30, 1993).

Drug Control: Coordination of Intelligence Activities (GAO/GGD-93-83BR, Apr. 2, 1993).

Bank and Thrift Failures: The Government Could Do More to Pursue Fraud and Wrongdoing (GAO/T-GGD-93-1, Jan. 28, 1993).

Bank and Thrift Criminal Fraud: The Federal Commitment Could Be Broadened (GAO/GGD-93-48, Jan. 8, 1993).

Drug Control: Inadequate Guidance Results in Duplicate Intelligence Production Efforts (GAO/NSIAD-92-153, Apr. 14, 1992).

Bank and Thrift Fraud: Overview of the Federal Government's Response (GAO/T-GGD-92-12, Feb. 6, 1992).

War on Drugs: Information Management Poses Formidable Challenges (GAO/IMTEC-91-40, May 31, 1991).

Justice Department: Coordination Between DEA and the FBI (GAO/GGD-90-59, Mar. 21, 1990).

(182018)

Mr. MCCOLLUM. We want to thank both of you for coming here today, and obviously you are just into the study. We are at a stage where you have done preliminary work, and we understand that, but a few questions do come to mind.

I note, in looking at your statement, that there is some explanation of this, but I think the members ought to understand it better. Why are the U.S. Postal Service inspectors and the U.S. Capitol Police not included in the data?

Mr. RABKIN. We relied on data from OPM, their Central Personnel Data File, and that contains information on mostly the executive agencies and very limited information on legislative agencies, no information on the judicial branch.

The Postal Service is an independent agency, and they do not provide information to OPM for the CPDF. In addition, the U.S. Capitol Police are not included, and there are a number of other organizations that don't provide information. So those numbers are not included in the data we are presenting this morning.

Mr. MCCOLLUM. Do you have any anticipation of being able to gather data before your study is complete on this group? Is the OPM data the only kind that you really work with?

Mr. RABKIN. Well, we certainly can work it out with the subcommittee, but I don't think it would be too difficult for us, through discussions with the agencies, administration of questionnaires, and other methodologies, to obtain that information.

Mr. MCCOLLUM. Well, the only reason I ask that is because we do oversee the mail fraud laws, and the postal inspectors obviously have a lot to do with that. While I am not looking to try to get down to the fellows that are inspecting every day the post office to see how it is efficiently working, the criminal aspects of this is of concern to our subcommittee. And obviously the Capitol Police, which are an entirely different matter, are of interest, too.

There could be many other entities like this, and I don't know that it would be justified for us to request you to do all of them, but we would like to know, as you progress through this, what the practicalities are of obtaining that information and what the feasibilities are of it.

Your data also, of course, do not include the military police who do have some authority over civilian crime. Is this similar because it is a different data base or is this too comprehensive and beyond the scope of what we should reasonably be asking you to do?

Mr. RABKIN. Well, the data base we relied on is just on civilian personnel. Therefore, the military police are not included. There should be some data available at DOD on that, and we can work it out. I am sure we can provide some information on those numbers at a later date.

Mr. MCCOLLUM. Again, that is not as crucial in some ways to our oversight responsibilities as the other, but nonetheless it would be helpful, if we are going to have a big picture, to at least have the big picture numbers like you are giving us today on the number of personnel, the costs and so forth, and have it in one report. But to go into the nitty-gritty of that might be going beyond what we need to do for our purposes.

In a 1993 report, you indicated a poor coordination between the Commerce Department's Export Administration and the U.S. Cus-

toms Service was impeding investigation efforts and adversely affecting individual cases but that these agencies had concluded agreements in 1993 to improve cooperation.

Will you be updating this report? You indicated the DEA/FBI question a minute ago. Is that all anticipated in what you are going to be presenting to us eventually?

Mr. RABKIN. We could, if you would like. I didn't have any plans to update that work.

If I recall, in that report we presented some matters for consideration by the Congress in terms of the coordination between Commerce and the Customs Service. There were a number of options for minimizing the difficulties that were—because both agencies were involved with the same responsibilities. We presented some of those options and basically said it would be Congress' call as to how to resolve it.

Mr. MCCOLLUM. You have limited your analysis to those personnel performing investigative work. For our purposes, how do you define that?

Mr. RABKIN. Well, we looked into the classification series that OPM had and some of the definitions of those series, and we identified the nine that seemed to be involved in either investigating or enforcing criminal laws or detecting violations of criminal laws, and, as I mentioned in my comments, there are a lot of different ways you could cut this. There are probably other classification series that you might argue could be included, and some of the ones we've chosen might not appear to be directly related.

When we prepare our final report, I think we will have a broader range and more discussion as to why certain series are in and why others are out, and we can certainly—we have a data tape available to us in GAO, and we can cut that data fairly quickly a lot of different ways.

Mr. MCCOLLUM. The job classifications you have outlined on your charts, are there job descriptions for them?

Mr. RABKIN. Yes, there are. In my written statement, the first appendix contains the information from the OPM listing.

Mr. MCCOLLUM. All right.

Well, I really appreciate the work that you are doing. I don't want to belabor my time asking you a lot of detailed questions, because I think what you are giving us is just a foundation for what we need to do and your stage of this is some ways away of being completed.

The last question is though: Do you have any estimate—and I know this is a comprehensive process—what kind of time horizon we are looking at for the kind of workload we are dealing with?

You know, maybe I would ask Dr. McPhail that question, because he is going to do a lot of that work.

Are we looking at many months of work, or a year or two of work, or what are we looking at to really do this job the way you think it should be done?

Mr. RABKIN. Well, quite frankly, I think it really depends on the key questions that you would like us to answer. If there are more descriptive questions as we have talked about this morning, it shouldn't take all that long. I think we are talking, you know, months.

If there are evaluative questions as to how well the law enforcement—how well the coordination is taking place or some of the impacts of overlap of responsibilities, then I think it is going to take a lot longer.

Mr. MCCOLLUM. Well, I think we are going to evaluate that as a subcommittee, as you produce your product, as we hold a few more hearings, and I feel confident there will be some evaluation questions to be directed your way. But to ask you to go through an evaluation for everything you are doing would probably be more than we would need to be asking.

Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman.

You mentioned in your testimony that the Vice President's National Performance Review suggested that certain law enforcement agencies, DEA and ATF, be transferred to the FBI, but you didn't mention that after further consideration the administration decided this was a bad idea. I would just like to submit for the record, and ask unanimous consent, a letter to Arlen Specter, who is the analogous chairman in the Senate, from Janet Reno, which clarifies the administration's position.

Mr. MCCOLLUM. Without objection.

[The letter follows:]

Office of the Attorney General
Washington, D. C. 20530

The Honorable Arlen Specter
Chairman, Subcommittee on Terrorism,
Technology and Government Information
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your October 23, 1995, letters to me and to Director Freeh seeking our views on a variety of issues affecting the coordination of federal law enforcement, and for the follow-up letters you sent each of us later that day regarding the Bureau of Alcohol, Tobacco and Firearms (ATF). This letter responds to all four pieces of correspondence.

First, you have asked, "[w]hether there should be any reorganization of the Alcohol, Tobacco and Firearms Bureau." Because ATF is part of the Department of the Treasury, this question is better addressed to that Department. We do not have sufficient information to offer an opinion as to whether a reorganization would be appropriate.

Second, you have asked, "[w]hether the [ATF] should be merged into the FBI." The Administration's position is that a merger is not warranted.

Third, you have asked, "[w]hether there should be any mergers and/or reorganization of the federal law enforcement agencies." With respect to the Justice Department's own law enforcement agencies, we have already effected a form of reorganization. In 1993, I established the Office of Investigative Agency Policies (OIAP), currently chaired by FBI Director Freeh. OIAP's responsibility is to ensure that the Justice agencies -- the FBI, DEA, INS and USMS -- have uniform and/or coordinated policies and programs in all areas where uniformity and/or coordination are appropriate.

OIAP already has coordinated and consolidated the programs of Justice Department agencies in such areas as air transport operations, sharing of drug intelligence, overseas drug investigations, and wireless communications.

Perhaps more important, OIAP has established uniform guidelines in such areas as critical incident response and shooting incident review. These join a number of very important Attorney General guidelines adopted long-ago by the Department, including guidelines for counterintelligence investigations, sensitive undercover operations, extraterritorial criminal investigations, and general crimes, racketeering enterprise and domestic security/terrorism investigations.

We are strongly of the view that coordination and cooperation are needed among federal law enforcement agencies. The Justice Department adopted the guidelines outlined above for a number of reasons. Some were adopted to enhance our efficiency in fighting crime. Many others were adopted because we regard them as necessary to ensure that the rights of our citizens are respected and protected while we are fighting crime. In general, we believe that law enforcement agencies outside of the Department should adopt the same or similar guidelines where applicable, and coordinate with this Department in their law enforcement activities.

We have begun the process of working closely with the Treasury Department to encourage it to adopt existing Justice Department guidelines in these areas, to develop uniform policies in new areas, and to ensure greater cooperation in all of our law enforcement initiatives. This closer working relationship already has borne significant fruit in the form of a uniform deadly force policy for both Departments, and in Treasury's adoption of the Attorney General guidelines for sensitive undercover operations -- including the participation of Justice Department prosecutors on Treasury agency undercover review committees.

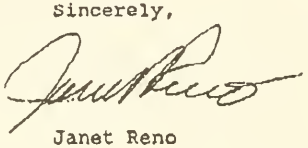
Finally, you have asked "[w]hether the [ATF] should be involved in infiltrating domestic terrorism organizations." As you are aware, the Justice Department treats such domestic terrorism investigations as among the most sensitive operations we undertake. To protect the civil liberties of our citizens, and to ensure that such investigations take place only when there is sufficient predication, the Department has a complete set of guidelines governing domestic terrorism investigations, and requiring various authorizations by senior officials.

In our view, any agency conducting a domestic terrorism investigation should adhere to these guidelines, and coordinate closely with the FBI. The Departments of Justice and the Treasury currently are working on this issue. The need for coordination was recognized by the President's announcement, in the aftermath of the bombing in Oklahoma City, that he had directed the FBI to establish a Domestic Counter-terrorism Center

to improve information and coordination among law enforcement and intelligence agencies, and by the Administration's request for emergency FY 1995 and FY 1996 appropriations to fund the establishment of the Center.

We appreciate the opportunity to provide information relating to the coordination of federal law enforcement, and hope to work with you as you continue examining this issue. Please do not hesitate to contact me if you have any questions, or have a member of your staff contact either Kent Markus or Nicholas M. Gess.

Sincerely,



Janet Reno

cc: The Honorable Herbert Kohl
The Honorable Orrin G. Hatch
The Honorable Joseph Biden

Mr. SCHUMER. OK. Thank you.

My question is, I take it that most of the jurisdiction that ATF has does not overlap now with existing agencies. Is that correct?

Mr. MCPHAIL. We don't know that to be the case at this point in time. It is kind of a continuing review of ATF, as we do our work.

Mr. SCHUMER. OK. Well, I have a list here of all of their functions, which seems to be pretty comprehensive. Mr. Scott and I were looking at it, and we couldn't figure out anything that they left out, and in only one area, in the guns area, there was a little overlap in alcohol with FDA about wines that had less than 7 percent alcohol. But the only area there were some overlap is in the explosive areas where the FBI deals with counterterrorism and are dealing with explosive, but otherwise it seemed pretty free from overlap.

Mr. RABKIN. We haven't obtained all the authorities in which the agencies operate. We plan to do that.

But on a practical matter, in terms of actual operations, in local areas where there may be organizations that both ATF and other Federal law enforcement agencies suspect of being involved with firearms violations, drug violations, et cetera, there is opportunity for overlap.

Mr. SCHUMER. When there is both a drug and a firearm thing, obviously.

Let me just ask you this. The questions I have aren't really in the ambit of your report, on which I think you have done a very good job, but it is basically numerical, and a lot of these questions are not numerical.

But don't you think there would be some value if the American people, through the Congress, thought that certain areas should get focus, such as drugs—take DEA—by having a separate agency that would create that focus?

We had hearings on this very issue two years ago, and when I started out my mind was not made up. The Vice President had come out for it, and as we went through the hearings I changed, because, you know, the FBI, for instance—and I think they are a fine organization, but they are always shifting their priorities.

Just a few years ago—they don't like to divulge a lot of this—but they shifted a large number of agents from health care fraud to terrorism after the World Trade Center bombing. I have no quarrel with them doing that, but what you worry about is that if an agency doesn't have continual focus in one direction, they lose some of their ability, their emphasis, et cetera.

Does that argument make any sense to you, either of you?

Mr. RABKIN. Well, it seems to me that there are a lot of ways that the Congress can put priority on various issues. Certainly creating an agency to deal with it is one way. The budget resources it gives, the amount of oversight and attention that it provides to the activities, there are a lot of different ways.

Mr. SCHUMER. In terms of budget resources, we don't tell the FBI how much of its resources go to health care fraud, how much of its resources go to each specific area. They have pretty much freedom to switch that around among themselves.

Let us just assume that DEA were folded into the FBI. We could send a lot of letters to an administration saying make sure you focus on drugs. But would we have that much clout?

In fact, when the agency is broken out is when we have the budget authority issue, because we can say this much for DEA, this much for FBI. Do you agree with that?

Mr. RABKIN. You certainly can give it more visibility that way, but once the funds—the caveats that are attached to the funds that are appropriated—appropriations committees can direct that funds be used on specific programs, and through oversight or reprogramming rules can keep track of where that money is actually spent.

Mr. SCHUMER. As chairman of the Crime Subcommittee before my esteemed colleague took over, I can tell you that we might be able to say all the report language we want and have a hearing to do that, and we don't have much say over it if it is not a separate agency; believe me.

Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you.

Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman. I will be brief.

I have one technical question, gentlemen, if you have the recollection at this time.

In studying the budget, particularly for the Department of Justice, I have noticed they have listed specific strike forces, which are combination teams for subjects like violent crimes, and I haven't quite figured out whether those are separately funded as line items or whether they are contributions from other line items. In other words, the FBI is funded generally and then contributes certain numbers of people from its present budget to form a strike force.

Is my question clear to you, and are you familiar with this area?

Mr. RABKIN. Well, I am not familiar enough to give you a definitive answer, but I know that strike forces and local operations task forces that the FBI gets involved with, with local law enforcement agencies, are funded through regular operating funds, but I don't know enough to answer the question completely.

Mr. SCHIFF. All right. If you have a moment, because I can get this from other sources, I am talking about what are designated in the budget as strike forces. They appear to be totally Federal teams for certain specific purposes. It just isn't clear to me whether they are line item or whether they are contributed FTE's. If that wouldn't be too much trouble.

Mr. RABKIN. We will provide that to you.

[The information follows:]

Strike forces are not listed as separate line items in the Department of Justice's budget. Although funds for strike forces are not specifically broken out in the budget, both the U.S. Attorney's Office and the FBI provide personnel and funding whenever a strike force is deemed necessary.

Mr. SCHIFF. Mr. Chairman, I just want to say I have no further questions for these individuals. I just want to observe that this is a very important set of hearings that you have embarked upon here. I think the public would be surprised to learn how many different law enforcement agencies there are, which raises the question of accountability as to how they are operated. But I don't feel

that you have started this with any preconceived notion about what the conclusion should be.

Just speaking for myself, I used to rather strongly believe that ATF should largely be moved over to the Justice Department. I have since developed some reservations about that, as the administration has. They started off with that position and are backing away from it.

I think these hearings are important to look into what do we have, how is it organized, and is there any better way or efficient way to organize it? I find that to be a very legitimate and helpful area for this subcommittee and one whose only goal is to cooperate with the administration, whoever it might be in the White House, to achieve the maximum efficiency of law enforcement. So I appreciate you holding these hearings.

I yield back.

Mr. MCCOLLUM. You are quite welcome.

Mr. Scott, you are recognized for five minutes.

Mr. SCOTT. Thank you, Mr. Chairman. I have a couple of questions.

In light of the Federalization of many of the crimes—for example, some kinds of carjacking are now Federal crimes—did you consider the overlap with the local police as you did your study?

Mr. RABKIN. No, sir. We are looking only in overlap among the Federal agencies.

Mr. SCOTT. You obviously found significant overlap. Did you determine whether some forms of overlap would be good or bad?

Mr. RABKIN. Basically, we didn't assign a value to the overlap. We identified it, and we talked about whether it was being coordinated.

In some cases, where there were some adverse outcomes to it, there were obviously problems that had to be dealt with and that we had made recommendations on. Agencies had taken action while we were doing our reviews in some cases to correct some of these operating problems. But overall——

Mr. SCOTT. For example?

Mr. RABKIN. For example, in the area of fugitives and the policies regarding which agencies have specific responsibilities for various kinds of fugitives, we had identified overlaps among the agencies within the Justice Department and they had at that time—during our review, established the Office of Investigative Agency Policies—OIAP—and that group had, among its operating priorities, the responsibility to help resolve fugitive coordination problems. It just wasn't a high priority.

When we pointed out some of these problems, they focused in on it and solved the policy problems.

Mr. SCOTT. The negative aspects of the overlaps were worked out?

Mr. RABKIN. We hope so, yes. But they—the agencies were talking to each other, and at least the gaps in the policies were dealt with.

Mr. SCOTT. You mentioned the Park Service as a police agency. Isn't there a bona fide reason why you want to have a separate Park Service? Would you expect FBI agents, for example, to be doing police work in the National Parks?

Mr. RABKIN. We haven't gotten into those issues, sir, and I am not sure we will. We will identify the authorities under which each agency is operating, but we haven't been asked and we are not intending to determine or to offer an opinion as to whether those are appropriate roles for the agencies.

Mr. SCOTT. The ranking member mentioned what happens with allocation of resources. I can imagine after the Oklahoma bombing that you would—I mean, if you shift a lot, I mean, you might not have any police officers in the Park Service where everybody is kind of under the same umbrella. Do you see that as a problem?

Mr. RABKIN. Well, I think it is a problem for the agencies themselves individually, and they have to make these kinds of decisions as to where they will allocate their resources as their policies change.

Mr. SCOTT. DEA specifically, do I understand that your recommendation is that the DEA be eliminated or consolidated with the FBI?

Mr. RABKIN. No, sir, that was not our recommendation.

Mr. SCOTT. What would be the policy or efficiency implications of that consolidation, or have you gotten to that point in your study?

Mr. RABKIN. We haven't looked at that issue.

I know that when the Vice President's National Performance Review first made the recommendation, they had identified some savings that would result from consolidating DEA and ATF into the FBI, but I have no idea where the numbers came from or how valid they are.

They did recognize in the report that the savings would result from consolidation of administrative functions, perhaps laboratories, technical things like that. But I think the assumption was that the agents on the street would still be there, the same number of agents. It is just that the management structure would be a little different.

Mr. SCOTT. But you could have a consolidated lab without consolidating the police agencies.

Mr. RABKIN. That is true. The same thing with the training facilities.

Mr. SCOTT. Let me ask one final question. There is some suggestion that some of the agencies have gotten out of control. Would we be better off with different agencies rather than taking the chance that the one super-police agency somehow got out of control and not be able to shift from one to another or have competing agencies?

Mr. RABKIN. I really don't have an opinion on that, sir.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Mr. Heineman, you are recognized for five minutes.

Mr. HEINEMAN. Thank you, Mr. Chairman.

This is a difficult panel to question because they deal with different things than control and operational issues, which is probably where the problems really are.

I was interested in Mr. Schumer's question about the investigation of health care fraud under the FBI and the statement that they had shifted that from—to other priorities. Of course we don't

want to—we don't want to micromanage the priorities of the agencies in the Federal Government, and priorities do change, such as we have today with Medicare and Medicaid fraud. People out there saying, "Is anybody watching? Is anybody doing anything?" And I think it would be very interesting if we could, Mr. Chairman, get some kind of a history on the success of that initiative by the FBI. I certainly—I would be interested.

When you hear the horror stories on television about a medicare patient being charged $347,000 for 2 days in the hospital and having it paid, you know, we do a lot of investigation into bank robberies where we are losing $1,800 and things like that.

But I would be interested to know as to whether, when the budgets come down, do they line item those or do they just carry them in programs? And if they do carry them in programs, do they line item the programs, such as to look at the FBI budget to see exactly what has been allocated and what has been done where health care is concerned, health care and fraud?

I don't know whether you have that information.

Mr. RABKIN. Well, it is my understanding that the budget does not get that specific, but certainly the agencies have internal records as to where they spend their resources.

The FBI, for example, has put out a report on its activities in the health care fraud area, and I have seen—we are doing some work looking at health care fraud in GAO, so I know that that is available, and, if you like, I can get your office a copy, or the FBI, I am sure, would be able to provide it.

Mr. HEINEMAN. Well, I would like to get a copy of that. And certainly I understand shifting priorities and we have to leave it to the leadership of the FBI or DEA or ATF to assess the priorities of the moment.

Law enforcement is unpredictable, but so that we don't let a program as important as health care fraud lapse or take a back burner, whether we could get a heads up on that so that—not we, but Justice—could get a heads up on that so that those important things don't lapse, so that they don't take back seats, especially when you are dealing with the enormity of fraud in health care.

I have been thinking of that many times, because the people back home—and that means all across this country—always bring up about that, the fraud in health care, the fraud in Medicare, the fraud in Medicaid, and it is out there, and people get very cynical about that.

But as far as consolidating labs, it was brought up by the gentleman from Virginia, we have seen that work many ways, and once you get into consolidating laboratories, you get into priorities. Everybody has got a priority at the same time. And how do you work with that? How do you get somebody from DEA that has an immediate priority and weigh that against somebody from the FBI that has a priority in the same field? I can see it both ways. We can be overefficient, which would lead us to be inefficient as far as consolidation is concerned.

And I don't have any more statements to make.

Mr. Chairman.

Mr. MCCOLLUM. Thank you very much, Mr. Heineman.

Ms. Jackson Lee, you are recognized for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, thank you, and, as usual, this is a very helpful process because it is done away from some of the more volatile climates that we have experienced over the last couple of months with respect to several hearings that have been held, one by the House committee, an important hearing, of course, on Waco, and then by the Senate Judiciary Committee, I believe, dealing with Ruby Ridge.

There is some irony in this discussion because, coming from a local community, particularly Texas—and I might mention Harris County—there are a myriad of local law enforcement agencies—in fact, I think we are still counting—from constables, to sheriffs, to police, to airport police.

In fact, as a council member, I went through the whole concept of merging that organization with the city police, and, in fact, the constituency base are always asking local officials for more.

There is an exchange program, for example, where local communities can pay for constables, which are different from deputy sheriffs, to patrol their area, and one of the points that bears well in those local communities is, one, the concept of coordination, collaboration and as well as a concept that I think is very important, this community-oriented policing, getting to know who you police.

My question then to you may be rhetorical, but it says: What is wrong with a myriad of police agencies, and rather than suggesting, because of some very egregious errors that we have been able to note, that, in fact, unique responsibilities are important?

I think my colleague on the other side of the aisle made the statement about focus and priorities, and so if I believe, as I think the polls will show, that there may be an enormous amount of proliferation of guns in this community, in this Nation, and that the organization that has been under fire that deals with monitoring weapons, many Americans will say that is important.

Abuse is not important, but that is very important, to have an organization whose main focus is to nationally keep guns out of the hands of children, keep guns out of the hands of criminals, stop the mass production of weapons of death in our Nation that deal with civilians. What is wrong with that?

And then the FBI, of course, has its responsibility, Border Patrol, and I am sure there is a long litany.

My question would be, in terms of your report, whether or not we should take from it, throw the baby out with the bathwater, or, as we do on the local level, is it simply a matter of trying to coordinate, trying to redefine and delineate the specific responsibilities?

And, finally—and I am asking both gentlemen—there are three questions: Is it bad to have the number of law enforcement agencies that we have in this Nation, or do we just have some problems that need to be fixed? Certainly keeping in mind our civil liberties and the constitution of the United States.

I appreciate your answer on that question—those three questions.

Mr. RABKIN. Well, I think you are right, it is a rhetorical question. We are really not in a position to answer the value aspects of the question.

I can mention, however, that we have done some work, specifically in the Los Angeles area, looking at the Federal efforts to co-

ordinate with State and local efforts in the fight against violent crime, and there have been a number of successes there with various Federal agencies working with local agencies on task forces. So it is—at least in that area, we found it to be well coordinated.

But your broader question I am just not in a position to answer.

Mr. MCPHAIL. I would maybe echo the same opinion, and that with regard to task forces there have been some efforts to coordinate Federal, State, and local activity.

With regard to your broader question, which was whether or not they should be a little larger——

Ms. JACKSON LEE. Well, is it bad to have as many Federal law enforcement agencies as we have? I mean, can we fix it? You did a study that I am sure studied them, and can we fix it? Can we work with these agencies in order that they do their particular job and do it well within the Constitution of the United States?

Mr. MCPHAIL. We have done some work in GAO with regard to coordination. We, for example, looked at drug intelligence. We found opportunities for a better coordination across the board. But whether it is good or bad is perhaps beyond the scope of any work that we have ever done.

I can say that there have been some initiatives, at least with the NPR—the National Performance Review—that talks about creating a director of law enforcement, for example, with the idea of pulling some of these areas together, and perhaps that may be an answer at that level.

Ms. JACKSON LEE. You would agree, however, that there is something to focus, DEA, firearms agency that deals with firearms—there is some value to focus and having the expertise to dealing with ridding us of drugs, ridding us of illegal firearms? Is there some value to that?

Mr. MCPHAIL. I would say certainly there is some value. However, I am not quite sure who would be necessarily responsible for that, but it is obviously of value.

Ms. JACKSON LEE. So whatever we do, we need further study? I mean, this is not a time when you can dismantle some of the good parts of what law enforcement does. Certainly, you want them to do a better job.

Mr. MCPHAIL. Well, again, the case of dismantling—again, I can't address that, but I can certainly say that there is an obvious need to ensure the fact that there is greater coordination among Federal agencies to pursue gun control, for example, or drug control.

Ms. JACKSON LEE. We can be instructed by that. Thank you.

Mr. MCCOLLUM. Thank you, Ms. Jackson Lee.

Mr. Bryant, you are recognized.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman. Let me add my appreciation for your starting these very important hearings.

I wanted to ask the gentleman—thank you, gentlemen, too, for being here today. Are there any numbers—I know you did a study for this subcommittee, but is there any way to put this study in perspective in terms of trends or comparisons? Do you have any similar studies from the past from which you could say well, the percentage of our law enforcement is going up or the dollar amount that we spend is going up or down?

Mr. RABKIN. We haven't specifically done that for this work. However, in 1990 the National Advisory Commission on Law Enforcement Commission—Advisory Commission, put out a report dealing with pay and benefits for Federal law enforcement employees, and they presented some information about how many law enforcement people there were, and they broke it down a little bit differently than we did.

However, you can take the job classification series that has the most criminal law enforcement people in it, and that is the "1811" series of criminal investigators that has 76 percent of the people, and I have some information on how many there are today and how many there were 6 years ago, if that would be instructive.

Mr. BRYANT of Tennessee. I would be curious as to how the comparison is.

Mr. RABKIN. As of March 1995, there were 31,330 Federal law enforcement officials categorized as in the "1811" series. In March 1989, there were 29,399. So that represents about a 6.5 percent increase from March 1989 to March 1995.

Mr. BRYANT of Tennessee. And not much of an increase to March 1995.

Mr. RABKIN. Yes. Six years, about a 6.5-percent increase in that number.

Now, I don't know—now, I can't explain to you why or whether there were reclassifications of employees or things like that, but those were the only two marks in time that we had available to us.

Mr. BRYANT of Tennessee. I have a theory on that, and I think it has some connection with what my colleague from Virginia, Mr. Scott, raised in terms of concurrent jurisdiction, where you have concurrent jurisdiction between the Federal authorities and State or local authorities, and that theory of mine is that over the years State prison systems have broken down, they have come under Federal court order or whatever, and as a result we have found States are not sending their State prisoners to jail a sufficient period of time.

In my home State of Tennessee, about 10 to 12 percent of the sentence is what they serve; a 10-year sentence, they will serve about 14, 16 months. As such, the local law enforcement tends, where there is concurrent jurisdiction, to go to the Federal authorities on those cases, particularly the hard cases, to get severe sentences, where they actually serve their sentence.

In light of that, I think our statistics—and being a former U.S. attorney, as my colleague Mr. Barr next to me was, who worked for General Thornburgh, who is on the next panel, we found that we were picking up more cases and our statistics were going higher. We were able to justify hiring more people as U.S. attorneys, and I am sure the investigative agencies were doing the same thing.

All of this to say if we could get our State systems fixed and the Federal Government was able to quit standing in the gap on those concurrent cases, that perhaps better cases could be prosecuted by the States, which I think they should be doing, at less cost to the Federal Government. And that is my theory.

The other question I would have for you—I guess I am just talking right now—is: Have you found through studies of organizations

that merging or reconfiguring actually saves money, or do you just reshuffle the people and end up with just about the same thing, just reconfigured?

Mr. RABKIN. I can't speak factually from experience, but it seems to me what happens when you combine agencies, that from the administrative—if you still want the agencies to carry out the same missions, the same functions, that where you get savings is if you are combining functions that were not operating at capacity.

For example, you have in merging two organizations that each have training functions and the classrooms were half full, by merging them you can perhaps fill up the classrooms and have a need for less instructors, so you might save some money that way. But it is a case-by-case study, I would think.

Mr. BRYANT of Tennessee. Is it GAO's function to recommend—I know, reading your report, you have done that a couple of times—is it your function to recommend these types of changes? And if so, do you have any at this point with regard to law enforcement?

Mr. RABKIN. We don't have any recommendations at this point regarding law enforcement, but I think we have from time to time reported on that, and we can certainly—you know, if the data are available in terms of capacity and costs, we could look at what the implications might be of combining agencies.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Bryant.

Mr. Watt, you are recognized.

Mr. WATT. Thank you, Mr. Chairman.

I really don't have any questions, per se, to ask this panel. I do want to praise them for the report that they have put together because I do think it gives us, particularly if you look at appendix 1 and appendix 2 to their testimony, a framework within which to evaluate the issue that is before this subcommittee, because I don't think we can evaluate this in terms of particular agencies as much as we need to look at the particular job series descriptions that they have outlined for us, the kinds of services that law enforcement provides to us in these various agencies.

For example, apparently the Internal Revenue has 3,601 criminal investigating people. Would it be appropriate to combine those criminal investigating people with the criminal investigating people in the Department of Navy, for example? They obviously are both doing criminal investigations, but the focus of the criminal investigations they are doing is so different that—but this appendix really gives us a basis for looking at the functions that are being served and making our own judgments about whether it makes sense to talk about consolidation or overlap of responsibility rather than overlap of agencies.

Since I don't have any questions about this particular thing, let me just ask you: I am fascinated by this report that you have put together for law enforcement purposes, and I think it will serve a very useful purpose. Has the GAO done an investigation that kind of spreadsheets functions for Army, Navy, Air Force, Marines in the defense area?

One of the questions I get is—we are all into national defense. Why do you need four different national defense agencies, for ex-

ample? I mean, why wouldn't it be more efficient to consolidate some of their functions?

Is there a similar—and I am not asking you that question, because I don't think you get to the bottom line issue, but is there information available about duplication of airplanes, for example, and ships and various kinds of things in other departments that we might ought be looking at also in the Government?

Mr. RABKIN. In the Defense Department, the—I think it is the Joint Chiefs of Staff has put out a report looking at the roles and missions of the various services within there and have talked about the possibility or the pros and cons of combining or keeping separate some of those roles and missions.

GAO has commented on that report from time to time, and they issue it from time to time. I think every couple of years there is something that comes out on that. So there is that kind of a study being done.

Mr. WATT. So you have done this kind of accounting of how many different defense agencies have planes and various equipment for national defense?

I want to just say that I support this kind of analysis. I think we—it is our obligation to continue to find ways to be more and more efficient in the Federal Government, and so I want to, before my time runs out, just to applaud you all for putting together the information that allows us to evaluate it and applaud the chairman for getting this particular segment of the review going, and maybe we can spread that to other segments of our Government where the agenda isn't as obvious as the agenda that some people are pursuing on this issue.

Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Watt.

Mr. Barr, do you have questions of this panel? You are recognized for 5 minutes.

Mr. BARR. I do. Thank you, Mr. Chairman.

Mr. Rabkin, do you have any figures on how many of all of the personnel that we are talking about today are authorized to carry firearms?

Mr. RABKIN. I don't have that information. I think Dr. McPhail has some examples as to differences, as to whether they all are or not.

Mr. BARR. What about those who are authorized to serve warrants? Do you have any figures on—of these personnel, how many are authorized to do that?

Mr. RABKIN. No, but in the continuing work that we are going to be doing for the subcommittee, we are going to be looking at the authorities under which all of these personnel operate, and to the extent that we could break out some of these carrying firearms or serving warrants, we would be glad to do that.

Mr. BARR. OK. That would be helpful.

As you have been answering some of the other questions, I have been sort of leafing through appendix 2 here, and I have a couple of questions about it. I don't see OSHA listed anywhere. Where would they fall under?

Mr. RABKIN. Well, the Department of Labor is listed.

Mr. BARR. Right, on page 18.

Mr. RABKIN. Right. And if no one in OSHA was qualified as a law enforcement official, that is, was receiving special law enforcement pay and/or eligible for benefits—special law enforcement retirement benefits, and were not in any of these nine series, they wouldn't show up here.

Mr. BARR. But wouldn't they fall under either 1801 or 1802, OSHA inspectors?

Mr. RABKIN. There may be other classifications that are more appropriate to workplace inspection. I don't know.

Mr. BARR. Well, I am just wondering, because they have a lot of folks there and yet EPA is listed. It struck me as a little bit odd.

Under EPA, there are no positions listed under general inspection or compliance inspection, 1801 or 1802, and I thought that there were, yet you have 199 under criminal investigating.

Does OSHA have—I am sorry—does the EPA have no general inspection or compliance inspection personnel?

Mr. RABKIN. What this data tells me is that they have no law enforcement officials that fall into these categories. They may have other officials that are not receiving law enforcement pay or are not eligible for law enforcement retirement benefits but may be assigned to these job classification series.

Mr. BARR. I guess I am still somewhat confused. I was operating under the basis of your definitions in appendix 1, under GS 1801 and GS 1802.

Mr. RABKIN. Mr. Barr, the first cut we made was identifying all the law enforcement officials in the Federal Government, and there were 65,000 of those. Then we put them into these nine categories. So if the officials in OSHA that do regulatory inspections were not considered law enforcement, they weren't receiving special law enforcement pay or they weren't eligible for special law enforcement retirement benefits, they weren't part of the 65,000 universe and, therefore, were not caught in this—as we broke it down a little finer for this.

Mr. BARR. Is the universe then, personnel who perform those same functions yet who may not receive that training or have those pension benefits, broader?

Mr. RABKIN. Yes.

Mr. BARR. Than this?

Mr. RABKIN. Well, it is different. I don't know if it is broader, but it is different.

Mr. BARR. Well, it certainly wouldn't be less, would it? I mean, it is not going to be less than the 65,000. OSHA has people out there that are performing functions that would fall under 1801 or 1802.

Mr. RABKIN. Right.

Mr. BARR. And yet they are not reflected in here. So all I am saying is, I understand the criteria, I think, that you have used for these figures, but in point of fact the number of Federal officials, personnel or employees, that are performing many of these same functions is really larger than that.

Mr. RABKIN. That is correct.

Mr. BARR. OK.

Mr. RABKIN. That is correct.

Mr. BARR. Will you be also—and this follows on a question that Mr. Bryant asked. Will you be, or, if not, could you please provide us some historical data on these?

In other words, we have these figures for 1995 here. Would it be fairly simple to go back and provide us a chart showing how in all of these different categories and agencies the numbers of personnel that fall under these categories have increased over time? Would that be something you can do?

Mr. RABKIN. I am not sure it would be easy, but we can look at it. We would have to identify which periods. This information came out of a data file that we had access to, and to the extent that we could go back and recreate those data files, we ought to be able to do that. But I will have to check with our technical people on that, and I will get back to your office.

Mr. BARR. If you would, please, I would appreciate that.

Are you aware—one item that just sort of caught my attention just flipping through here is, the Railroad Retirement Board has a number of criminal investigators. Are you aware of what they criminally investigate?

Mr. RABKIN. No, I am not, and that is part of the information we are going to be obtaining in the next part of our work.

Mr. BARR. OK.

Mr. RABKIN. A lot of these agencies have inspectors general, and part of the Inspector General Office has some criminal investigative authorities. I don't know if that is the case in the Railroad Retirement Board, but we will be following up on that.

Mr. BARR. OK.

Mr. MCCOLLUM. Mr. Barr, your time has expired. If you have one other wrap-up question, please do it.

Mr. BARR. OK. I guess I would like to—I think this is a very good data as a starting point, but I think it is obvious it really is just a starting point, and I do look forward to receiving additional information from these gentlemen, as well as through the further hearings that we will be having.

I thank the chairman.

Mr. MCCOLLUM. Thank you very much, Mr. Barr.

I want to thank you, Mr. Rabkin and Dr. McPhail, for what you have initiated in giving us this broader data base.

By way of illustration and to simply make a point, my staff is going to be working with you on a particular item that illustrates, I think, the need for sometimes the more detailed work that you can do in a subset of this.

As a committee, we have recently passed a major immigration reform bill. That bill is going to go to the floor of the House in January or February for a full debate there.

It has come to our attention and the Subcommittee on Immigration's attention that the law enforcement functions of the Border Patrol and the investigators in the Immigration Service—not the inspectors but the investigators—have some vagueness to them and that Border Patrol are now being moved by this legislation and some other legislation almost exclusively to the borders, literally to the Southwest border, in sizeable numbers, leaving most of the interior with only the investigators, and their definitions of what

their job is and so forth do not necessarily encompass doing all the same work the Border Patrol is doing.

So there is a real concern we have in the short run over whether or not these two functions within the Immigration and Naturalization Service are actually going to be performed. Are we going to be doing something detrimental to law enforcement within the immigration system by this process?

So I am not going to elaborate on it, but I am just raising a red flag to you that that will be a time-sensitive-question subset of this, and I think it is just as we will to put it under this charge as it is to go and ask you for a whole new investigation or something. It is sort of part of what you are doing anyway but one that would have a time-sensitive nature to it.

Mr. RABKIN. We have been doing some work looking at the issue of the Border Patrol and the investigative core within INS, and we would be glad to brief you on that.

Mr. MCCOLLUM. That would be good, and maybe it would solve all of that problem, but there are some serious questions.

I want to thank you for appearing today, and I appreciate very much the work you are doing.

Mr. MCCOLLUM. We will move on now to our second panel, if we could, and as I introduce the panel, if they can come up, we should get some name plates and put them out there. They are very distinguished.

Mr. BRYANT. Mr. Chairman, could I ask unanimous consent, while the members are coming up, to attach my opening statement to the record?

Mr. MCCOLLUM. Certainly. Your statement in total will be put into the record, without objection.

[The prepared statement of Mr. Bryant of Tennessee follows:]

PREPARED STATEMENT OF HON. ED BRYANT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Chairman, I appreciate your convening these hearings to explore the nature, the extent, and the recent proliferation of federal law enforcement. I am pleased to participate in them.

It goes without saying that in order to have a civilized society, there need to be a set of laws to govern that society, to give order. Indeed, laws serve a most useful purpose. They render freedom within their bounds.

Now it follows that when a system of laws exists, there must be a corresponding means of enforcing those laws and of adjudicating fact cases that arise under those laws. For the latter, we have courts of law. For the former -- law enforcement -- we have police agencies of various kinds.

Therefore, we approach the topic of this hearing with the assumption that society has a need of and that a legitimate role exists for law enforcement agencies.

My experience working with law enforcement agents was very positive. I worked with the FBI, ATF, DEA, and with state and local law officers. These individuals shoulder some of the most dangerous duties that exist in society, and they deserve to be commended for the service they perform.

However, many of my constituents have expressed to me their concerns about the size and scope of the federal government and its law enforcement arm. This crisis in confidence in the federal government may stem from a couple of sources. One source may be that government has grown too large. Government's hands are simply in too many pies. The argument may be advanced that the New Deal programs, the Great Society programs, and many other areas over which federal laws reach stretch far beyond the limited scope intended by the Founding Fathers and thus are unconstitutional in fact.

Another possible source of the public crisis in confidence in government is the system that has developed whereby the legislative branch -- the Congress -- allows unelected bureaucrats to fill in the blanks of legislation through writing rules and regulations. This situation has expanded to the point where people don't know from one day to the next if what they have been doing for years lawfully -- say, farming on a field that puddles when it rains hard -- may be unlawful tomorrow, according to the unelected bureaucrats.

To make matters worse, the current regulation-run-amok situation often requires citizens to bear the burden of proof, to have to prove themselves innocent. There's no secure presumption of innocence in the regulatory realm.

Mr. Chairman, we have become painfully aware of instances of unaccountability and recklessness in federal law enforcement. The tragedies at Waco and Ruby Ridge show how fallible men and women in law enforcement are not exempt from making mistakes in judgment. Even those in law enforcement are capable of attempting to cover up those errors in judgment. Because we are all capable of sin, by virtue of being human beings, any government of laws must include checks and balances in order to ensure accountability. That is the reason we have hearings such as this one.

In conclusion, Mr. Chairman, we need law enforcement. The questions we will address through this series of hearings are, how much law enforcement is needed? Is the current structure of federal law enforcement appropriate or in need of reform? How many federal law enforcement resources does our society need, so as to balance civil liberties with the preservation of law and order?

I look forward to these hearings and trust they will prove helpful in guiding us to a proper assessment of America's current and future federal law enforcement requirements.

# # #

Mr. MCCOLLUM. Our first panelist on the second panel is Griffin Bell, who served as the 72d Attorney General of the United States from 1977 to 1979.

In 1961 he left the private practice of law as managing partner at King & Spaulding in Atlanta, when he was appointed as a judge at the U.S. Court of Appeals for the Fifth Circuit. He served on the court of appeals until 1976 and then returned to King & Spaulding until he became Attorney General in 1977. Judge Bell again returned to King & Spaulding in 1980, serving as chairman of the management committee and chairman of the firm's policy committee. In recent years he has focused his practice in the area of corporate crime.

Judge Bell has served as the first chairman of the Atlantic Commission on Crime and Juvenile Delinquency and is president of the College of Trial Lawyers.

Our second witness is former Attorney General Dick Thornburgh. Mr. Thornburgh's experience in Federal law enforcement has spanned four decades of public service, first as the U.S. attorney in the Western District of Pennsylvania in the late 1960's, then as Assistant Attorney General in charge of the Criminal Division at the Department of Justice in the mid-1970's, and finally as the U.S. Attorney General in both the Reagan and Bush administrations.

Somewhere in the midst of all of this Federal service, Dick Thornburgh found the time to be the Governor of the great Commonwealth of Pennsylvania for two terms as well as Under Secretary of the United Nations. Among his current activities, Mr. Thornburgh is engaged in the private practice of law at the firm of Kirkpatrick & Lockhart.

Our third witness is Salvatore Martoche—did I pronounce that right, Mr. Martoche?

Mr. MARTOCHE. Martoche.

Mr. MCCOLLUM. All right. Mr. Martoche served as Assistant Secretary of the Treasury for enforcement from 1988 to 1990. In that position, he supervised and coordinated activities of all Treasury Department law enforcement agencies and led the Treasury Department's efforts against illegal drug trafficking and money laundering.

Mr. Martoche also served as the Assistant Secretary of Labor for Labor Management Standards from 1986 to 1988 and as Acting Director of the Office of Thrift Supervision in 1990. From 1982 to 1986 he was the U.S. attorney for the Western District of New York. He is presently a partner with the law form of Hiscock & Barclay, in Buffalo, NY.

I want to welcome all of you today to this hearing. I especially want to thank Mr. Martoche for appearing on very short notice. Former Senator DeConcini was to have been a part of this panel but was unable to attend because of a death in his family over the weekend.

We really appreciate your willingness to serve on such short notice.

A couple of editorial comments. Because of the Speaker's request that I meet with him on a matter of law enforcement here in a couple of minutes, I am going to have to turn the chair over for a few

minutes at least to our vice chairman, Mr. Heineman, and I apologize to the distinguished witness panel for the fact that I will be gone during part of your testimony, but I have read it and I am looking forward to it, and I fully intend to return before your appearance is completed.

Secondly, I want to turn to my good friend and colleague from Georgia, Mr. Barr, who I think has a special interest in greeting one of our panelists today.

Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

I would like to state for the record that I have had the honor of working with each of these three gentlemen in my capacity as a U.S. attorney, but I would like to extend a special welcome today from a Georgian to a fellow Georgian, Judge Bell.

It is always an honor to have you here, Judge Bell, and particularly in this first opportunity that I have had as a Member of Congress to hear you and work with you, and I would like to extend a special welcome to you on behalf of the State of Georgia and the Seventh District for your appearance today.

Mr. BELL. Thank you very much.

Mr. HEINEMAN [presiding]. Thank you, Mr. Barr.

I would like to proceed in order of the list of witnesses, but I would also like to welcome you here for your time, for your energy. I haven't worked with any of you three gentlemen. Your reputations have preceded you, Mr. Bell, Mr. Thornburgh, and, Mr. Martoche, I haven't had an opportunity to hear much about you, but I am from New York, so two people from the home State, I welcome you.

Mr. Bell, I would start with you.

STATEMENT OF GRIFFIN B. BELL, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Mr. BELL. Start with me. I had a prepared statement which I would like to file.

How is that?

I have a prepared statement which I would like to file, with the permission of the Chair——

Mr. HEINEMAN. Sure. Proceed.

Mr. BELL [continuing]. And just make a short oral presentation.

I think what the committee is doing is very much needed in our country. The Federal Government has so many people in law enforcement that there is no—hardly anyone, I don't know of anyone, who could tell us where they are or how many there are.

I assume we are not going into the problems of professionalism or misconduct today. We are only going into—we are talking about finding these people, identifying them, and looking at whether there is any overlap. I am assuming that is what is going on.

When I left the Department of Justice, we had 54,000 people working at the Department. That is the whole bit, the FBI, the DEA. We had reduced the size of the Department from 55,400 down to 54,000, probably something that hasn't happened in modern times again.

But I was speaking with Ms. Reno when she first became Attorney General. She told me she had 92,000 people at the Depart-

ment, and I reminded her, when I left 15 years—14 years before, we had 54,000. I said, "What are all of those people doing?" She said she didn't—she had not had occasion to know about the great growth.

So I said, "Well, one good thing you could do, while you are working in the Government, is to find out why we have so many people there."

And then there are thousands of people that are not called law enforcement agents. Like when I was here, the rage was to create the inspector general departments. Now some of them, the people they call special agents, they are investigating people outside the Department, not inside. The idea was to make the people in the agencies behave. That is what it was designed for.

Mr. Barr was asking about OSHA inspectors. They are not only law enforcement people but they will set your fine for you while they are in your plant and collect the fine. So they have got probably more authority than almost anybody you could run across. I don't know if they are law enforcement people or not, but that is what they can do.

So I think the American people deserve to know who all of these people are, and after that you can get into whether they are behaving themselves or not, what are they doing.

Today, when you see a search warrant served—one marshal used to be able to do that—they may take 35 or 40 people. It looks like a military operation. They have flak jackets on, shotguns, just taking—executing a search warrant on somebody's place of business.

I think the American people are beginning to sense, since Ruby Ridge and Waco, that we have got a problem in Federal law enforcement. We have too many people doing it. We don't have enough managers. And what we ought to do today is say that we are going to get back to the Constitution and we are going to focus on what it says about who is in charge of law enforcement.

The President, under his oath, has to faithfully execute the laws. No one else is charged with that responsibility in the Government. The Congress can appropriate money and also engage in oversight, which is something that ought to be done, but it starts with the President's duty.

President Carter once asked me to give him an opinion as to whether we could make the Department of Justice independent, and we got an opinion from the Office of Legal Counsel that it cannot be independent, because if we made it independent we would have to create something else, a vehicle of some kind for the President to operate through in his duty to faithfully execute the laws.

I don't think we have ever had a President in modern times who would know where all of these law enforcement people are. It would take quite a study just to give to him to say these are the people in law enforcement.

So what you are doing is a good thing. I commend the committee for the start, and I would be glad to answer questions at the appropriate time.

[The prepared statement of Mr. Bell follows:]

PREPARED STATEMENT OF GRIFFIN B. BELL, FORMER ATTORNEY GENERAL OF THE UNITED STATES

It is a pleasure to have the opportunity to offer my views on the reform and reorganization of federal law enforcement agencies. I gave considerable thought to this matter while I was the Attorney General of the United States during the Administration of President Carter, and I also have been concerned about this matter since then. I have a few general thoughts that I would like to submit to the Subcommittee, and I am glad to answer any questions that members may have.

In my view, a strong case can be made that there are too many federal law enforcement agencies and too little central accountability for their actions. There are numerous federal law enforcement agencies in operation today, with thousands of federal law enforcement officers nationwide. To name just a few, there are the following: the Federal Bureau of Investigation; the Drug Enforcement Administration; the Bureau of Alcohol, Tobacco, and Firearms; the Secret Service; the Customs Service; the Border Patrol; as well as various Inspector Generals. It would be difficult to explain to the public why the federal government needs so many different organizations conducting federal law enforcement. Perhaps, the answer lies in history. Different agencies, such as the Justice Department and the Treasury Department, developed different law enforcement arms without

anyone undertaking a comprehensive examination of what organization would be best for federal law enforcement.

For example, the Treasury Department has one the world's largest army of law enforcement officers, yet the Treasury Department is not directly responsible for law enforcement. That is within the province of the Justice Department. In my view, there does not seem to be any present need for the Treasury Department to have a law enforcement branch of its own that is not directly responsible for receiving taxes. Most of the law enforcement functions performed by Treasury agents can be undertaken by members of the FBI or the DEA without any loss in efficiency. In addition, the Secret Service is responsible for protecting the life and family of the President of the United States and certain other persons, but there is no reason to believe that the FBI cannot undertake that responsibility just as well as the Secret Service. The FBI today is responsible for protecting the Attorney General, and I doubt that anyone would say that the Bureau is not capable of handling that assignment with the same degree of professionalism that is displayed by the Secret Service.

Consolidating federal law enforcement agencies would have the obvious benefit of enhancing accountability in one figure, such as the Attorney General. But there is an additional benefit that also should be considered. One of the arguments that often is advanced against the institution of Independent Counsels is that, by having a prosecutor investigate one person, there is a terrible risk of tunnel vision. There is value in having a prosecutor select from a full plate of cases, because that person has the benefit of perspective. That principles applies in the case of BATF. BATF agents are responsible for

enforcing the alcohol, tobacco, and firearms laws. As the result, they can lose perspective by not having the full range of cases to investigate. The public therefore may believe that BATF agents unfairly focus on firearms laws, rather than on the full range of crimes.

Consolidating investigative authority also would have the benefit of requiring Inspectors General to enlist the support of the FBI, or another centralized agency, in their investigations. Presently, there are hundreds of investigators working for the various Inspectors General. They undertake work that can, and in my opinion should, be done by FBI agents.

I would recommend that the Subcommittee give serious consideration to the following options. One would be to consolidate all federal law enforcement agencies in the Justice Department under the umbrella of the FBI. There may be a reason to leave some small number of agents in the Treasury Department to assist in tax collection, but there would be no need for that branch to be a large one. That option would increase accountability without losing efficiency.

The other option, one with which I do not agree, is to have a separate cabinet-level agency devoted entirely to the investigative branch of law enforcement. The director of that agency would have the same status as the Attorney General and the Secretary of the Treasury. That is the approach followed in the states, counties, and cities. There would be no loss of accountability, because the head of that agency would still be directly accountable to the President. If you endorse that approach, however, I believe that it would be valuable to have some lawyers engaging in oversight, so that investigations are not conducted without

a lawyer first reviewing them. I instituted that practice while I was Attorney General, and I believe that it is a sound one.

I am glad to answer any questions that you may have.

Mr. HEINEMAN. Thank you, sir.
General Thornburgh.

STATEMENT OF DICK THORNBURGH, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Mr. THORNBURGH. Good morning, Mr. Chairman, members of the subcommittee.

I have submitted a statement for the record but will attempt to summarize it in a little briefer form.

I agree with Judge Bell that the topic that you are giving consideration to is deserving of that. It is of considerable concern to the American people to know the current thinking on the role and organization of Federal law enforcement.

The hurly-burly of day-to-day issues in Federal law enforcement, whether it is the war on drugs or the tragedy of Waco, make it difficult for us to step back and look at the overarching issue of the role and organization of Federal law enforcement officers who are literally working around the world.

As you know, Mr. Chairman, I am somewhat a recidivist at the Department of Justice, having returned to the Department in many guises since first becoming a U.S. attorney in 1969. During that 26-year period I have worked with and observed Federal law enforcement matters from a variety of perspectives, and I couldn't help but reach some conclusions about the role and organization of Federal law enforcement.

I think any discussion of the organization of Federal law enforcement should start with a determination of its mission. The simple truth is that the Congress establishes that mission by the enactment of laws that necessitate Federal enforcement.

Federal officials over the years have come to assume plenary jurisdiction over most criminal investigations and prosecutions of an interstate character, and more recently they have seen their role in international law enforcement increase exponentially as the world in which we live and work has become a true global community.

The scope of Federal criminal jurisdiction and involvement has also expanded domestically as Congress has passed laws responding to specific problems of current interest. Often the expansion of the Federal mission overlaps the traditional mission of State and local law enforcement. Thus, the traditional scope of jurisdiction has recently been expanded to create Federal crimes involving, for example, carjacking, deadbeat dads, and certain types of domestic violence.

Generally, however, Federal law enforcement still operates in a subordinate role in our system of State sovereignty. Over 98 percent of all crimes of violence, for example, are investigated and prosecuted by State and local law enforcement.

Federal law enforcement officers can provide expertise in areas that individual States or localities are unable or unwilling to develop because of the resources required and the relative infrequency of the offense in each locality. For example, Federal officials provide much needed expertise in sophisticated investigations involving organized crime and official corruption as well as certain white-collar criminal investigations and prosecutions.

Thus, the mission of Federal law enforcement officials is increasingly intertwined with that of their State and local counterparts. The Federal Government often serves in a leadership role to advocate changes in the law or secure greater coordination between different law enforcement entities. Federal officials seek to improve coordination by creating cooperative task forces which help to increase the flow of information and resources to combat specific challenges.

The structure of Federal law enforcement has become increasingly diffuse and complex over time. There are now dozens of Federal entities that have law enforcement authority, and the various investigative entities have vastly different missions and capabilities.

While it remains generally true that prosecutive decisions are centralized in the Department of Justice, there are at least 35 separate Federal agencies and entities with the authority to investigate crimes. Nearly all of these investigative agencies authorize their officers to carry weapons, and many of these officers receive special cross-designations to exercise the authority granted to other agencies. It is this proliferation and mixing of investigative authority that presents the difficult issues this committee is addressing today.

One basic issue to be addressed is to what extent we should centralize Federal investigative functions. Such a move would certainly maximize accountability, consistency, and efficiency.

On the other hand, objections to such centralization include concerns that there would be an insufficient check on the authority of such a powerful centralized agency and that there would be a heightened potential for abuse and violation of civil rights and civil liberties.

However, the Congress should draw comfort from the fact that there is a great distance between the creation of a so-called national police force and dealing with the current plethora of investigative agencies.

Today, the FBI remains the Federal Government's premier investigative agency. FBI agents are extremely well trained and represent, in my opinion, the finest general investigative officers in the world.

Within the Department of Justice, other investigative agencies include the Drug Enforcement Administration, the U.S. Marshals Service, and the Immigration and Naturalization Service. Each of these entities has expertise within obvious specified areas of Federal law, and, like the FBI and Federal prosecutors, each of these agencies reports to the Attorney General.

There are, however, a myriad of other Federal investigative agencies that report to officials other than the Attorney General. The Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service, and the Internal Revenue Service, all investigate violations of Federal criminal laws and all report to the Secretary of the Treasury.

The U.S. Postal Service conducts criminal investigations through its Inspection Service. Agencies such as the Environmental Protection Agency, the Bureau of Indian affairs, the Park Service, the Forest Service, the Department of Agriculture, and a whole range

of other agencies to our Departments identified in the GAO report contain their own law enforcement investigative arms.

In addition, a number of specialized or ad hoc groups perform investigations which may have law enforcement consequences. The various inspectors general, the General Accounting Office itself, the Securities and Exchange Commission, the Federal Trade Commission, and a number of other specialized groups perform criminal investigations within their discrete areas of expertise.

The Department of Defense and Department of State present particular challenges in the area of law enforcement. Each of these Departments perform essential missions on behalf of the American people, but each Department has an ancillary law enforcement function as well. Thus, the military investigate and prosecute violations of military law and carry out investigations in such areas as fraud and impropriety in procurement practices. The State Department, by reason of its plenary authority in the conduct of foreign affairs, often intersects with law enforcement concerns that cross international boundaries.

Another area that needs oversight review is the role of intelligence agencies in criminal law enforcement. These agencies often obtain information that could be very helpful to domestic law enforcement agencies. They often hesitate to permit the use of such information, however, because it may tend to disclosure of sources and methods of intelligence gathering.

Finally, Federal law enforcement efforts face the additional challenges brought about by ad hoc structural changes aimed at specific problems. The clearest example of such a response was the creation of the drug czar, the Office of National Drug Control Policy. This type of ad hoc response threatens to add other layers of bureaucracy, making it all the more difficult to enforce Federal laws consistently.

In Judge Bell's prepared statement, he noted that different agencies, such as the Justice Department and the Treasury Department, developed different law enforcement arms without anyone undertaking a comprehensive examination of what organization would be best for Federal law enforcement. I believe the time has come for such a comprehensive examination, to step back and look at the structure of Federal law enforcement.

For many years policymakers have generated ad hoc solutions to short-term or high-visibility problems. These solutions often add to the jurisdictional reach of several investigative agencies but do not provide for the integration of these additional authorities within the structure of Federal, State, and local law enforcement. A response to the problem du jour can thus generate a quick press release but leave long-term complications in law enforcement. As priorities change, there remain bureaucracies with vested interests in preserving and expanding the law enforcement authority granted to respond to yesterday's problems.

I believe that more centralization is needed in order to best fulfill the mission of Federal law enforcement and to protect the civil rights and civil liberties of Americans who are potentially subject to investigation or other contacts with Federal law enforcement officials. It is also important that there be complete accountability in law enforcement matters. Law enforcement practices should be

transparent, and the American people should be able to hold identified individuals primarily responsible for enforcing the criminal laws passed by the Congress.

There are no easy answers to the difficult questions being pursued by this subcommittee, but it surely is time to conduct that long-term review of the role and structure of Federal criminal law enforcement. I would, therefore, urge that this Congress appoint a bipartisan Commission of law enforcement experts with no vested interest in the outcome of a comprehensive review to examine this question.

This Commission should consist of Federal, State, and local law enforcement and other officials and members drawn from the civil rights and civil liberties communities of this Nation. The members should be of such stature that their report will demand attention and command respect.

The Commission should be given a broad mandate to review all aspects of the role and structure of Federal law enforcement. It should be given the resources to conduct a nationwide review, including hearings in several locations across the Nation.

Most important, the Commission should be given time, enough time to conduct that thorough review, removed from the passions of the moment. The Commission should report back to the Congress within a year, and the members of the Commission should focus on producing a criminal law enforcement structure that can guide the next 25 years. That perspective will avoid the unintended consequences that accompany ad hoc responses to immediate problems.

Congress, of course, need not sit by and do nothing while the Commission is studying the current system. There are some obvious redundancies, inefficiencies, and bad fits that can be remedied before any such commission reports back.

For example, my own belief is that the mission and authority of the officers of the Bureau of Alcohol, Tobacco and Firearms could be focused back to the collection of revenues that caused it to operate within the Department of Treasury in the first place, with its law enforcement authority being lodged elsewhere.

Similarly, the mission of the officers of the U.S. Customs Service could be refocused on criminal investigations near the border, or its functional equivalent.

This is not just a one-way street. It is my belief that the non-law-enforcement functions of the Immigration and Naturalization Service would be more logically placed within the Department of State. Other changes will no doubt suggest themselves as a result of these hearings.

Most important, it should be emphasized that the role of law enforcement, Federal law enforcement, is generally to complement the role of State and local law enforcement which appropriately combats the vast majority of crimes of the greatest concern to our citizens.

Again, I commend this subcommittee for conducting oversight into these important issues, and I thank you for permitting me to offer my opinions. I will be happy to answer such questions as you may have.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Thornburgh follows:]

PREPARED STATEMENT OF DICK THORNBURGH, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Thank you, Mr. Chairman and members of the Subcommittee, for this opportunity to speak with you about a topic which is of considerable concern to all Americans -- the role and organization of federal law enforcement. The hurly-burly of day-to-day issues in federal law enforcement, whether it's the war on drugs or the tragedy at Waco, makes it difficult for us to take a step back and look at the over-arching issue of the role and organization of the more than 45,000 federal law enforcement officers working around the world. I commend you for making the time to conduct this vital oversight function.

As you know, Mr. Chairman, I am somewhat of a recidivist at the Department of Justice, having served several tours of duty with that organization since my appointment as United States Attorney for Western Pennsylvania in 1969. There is nothing in my professional career of which I am more proud than the time I spent as a federal law enforcement officer and the opportunity I had to work with the outstanding men and women of our law enforcement community. Over the last 26 years I have been privileged to work in a variety of capacities with and within the federal law enforcement community -- serving as a United States Attorney, the Assistant Attorney General for the Criminal Division, Governor of the Commonwealth of Pennsylvania, Attorney General and as an attorney in private practice. Working with and observing federal law enforcement matters from such a variety of perspectives, I could not help but reach some conclusions about the role and organization of federal law enforcement.

Before offering any specific comments on the role and structure of federal law enforcement, I must stress my tremendous admiration and respect for the men

and women who serve in federal law enforcement. Federal officers, along with their state and local counterparts, often work under almost unimaginably difficult circumstances to produce remarkable results. They are the true leaders in the war on crime, and we all owe them a tremendous debt of gratitude. Any comments I make that may be critical of the role or structure of federal law enforcement should never be taken as a criticism of the vast majority of the men and women working within the law enforcement system. Instead, I hope that my comments can be used to help improve the system so that these law enforcement officers are able to do their job freed of any artificial barriers imposed upon them by the very structure of the system in which they work.

The Mission of Federal Criminal Law Enforcement

Any discussion of the organization of federal law enforcement should start with a determination of the mission of federal law enforcement. The simple truth is that Congress establishes that mission by the enactment of laws that necessitate federal enforcement. Federal officials over the years have come to assume plenary jurisdiction over most criminal investigations and prosecutions of an interstate character. And, more recently, they have seen their role in international law enforcement increase exponentially as the world within which we live and work has become a true "global community." The scope of federal criminal jurisdiction and involvement has also expanded domestically as Congress has passed laws responding to specific problems of current interest. Often the expansion of the federal mission overlaps the traditional mission of state and local

law enforcement. Thus, the traditional scope of jurisdiction has recently been expanded to create federal crimes involving, for example, car-jacking, dead-beat dads and certain types of domestic violence.

Generally, however, federal law enforcement operates in a subordinate role in our system of state sovereignty. Over 98% of all crimes of violence, for example, are investigated and prosecuted by state and local law enforcement. Federal law officers often provide expertise in areas that individual states or localities are unable or unwilling to develop because of the resources required and the relative infrequency of the offense in each locality. For example, federal officials provide much-needed expertise in sophisticated investigations involving organized crime and official corruption as well as certain white collar criminal investigations and prosecutions.

Thus, the mission of federal law enforcement officials is increasingly intertwined with that of their state and local counterparts. The federal government often serves in a leadership role to advocate changes in the law or secure greater coordination between different law enforcement entities. Federal officials seek to improve coordination by creating cooperative task forces, such as the Law Enforcement Coordinating Committees ("LECC's") or the Organized Crime Drug Enforcement Task Forces ("OCDETF"). These groups help to increase the flow of information and resources to combat specific challenges. In addition, the federal government participates in cooperative operations to target specific criminal

practices or entities, such as "Operation Triggerlock" which focuses state, local and federal resources against the use of firearms in the commission of felonies.

The Present Structure

The structure of federal law enforcement has become increasingly diffuse and complex over time. There are now dozens of federal entities that have law enforcement authority, and the various investigative entities have vastly different missions and capabilities. It remains generally true that prosecutive decisions are centralized in the Department of Justice. The 94 Presidentially appointed United States Attorneys and the senior officials within the "main" Department of Justice initiate and oversee nearly all criminal prosecutions brought by the federal government. All of these officials report to the Attorney General, who is thus able to establish prosecution standards and policies. This centralization of the power to prosecute is important and must be preserved. It establishes accountability and serves to protect the civil rights and civil liberties of all Americans by providing for a consistent application of federal laws. I believe that the power to prosecute must remain solely with the Department of Justice.

In contrast with the power to prosecute, there are at least 35 federal agencies and entities with the authority to investigate crimes. Nearly all of these investigative agencies authorize their officers to carry weapons, and many of these officers receive special "cross designations" to exercise the authority granted to other agencies. Thus, a Customs Service officer may be cross-designated to act under the authority of, for example, the Drug Enforcement Administration.

It is this proliferation and mixing of investigative authority that presents the difficult issues this Committee is addressing today. One basic issue to be addressed is to what extent we should centralize federal investigative functions. Such a move would certainly maximize accountability, consistency and efficiency. On the other hand objections to such centralization include concerns that there would be an insufficient check on the authority of such a powerful, centralized authority and that there would be a heightened potential for abuse and violations of civil rights and civil liberties. In determining where to draw the line, Congress should take into account the genius of our founding fathers by reiterating and, in some cases, restoring the states' ability to act as the basic law enforcement authority, only to be supplemented by the federal government. Moreover, the Congress should draw comfort from the fact that there is a great distance between the creation of a "national police force" and dealing with the current plethora of investigative agencies.

Today the Federal Bureau of Investigation ("FBI") remains the federal government's premier investigative agency. FBI agents are extremely well trained and represent, in my opinion, the finest general investigative officers in the world. Over the years there has been a gradual change in the orientation of the FBI--away from the more confined mission of the past--toward the development of new expertise in several areas which complement that of other, more focused investigative agencies. Within the Department of Justice, other investigative agencies include the Drug Enforcement Administration, the United States Marshals

Service and the Immigration and Naturalization Service. Each of those entities has expertise within specified areas of federal law, and, like the FBI and federal prosecutors, each of these agencies reports to the Attorney General.

There are, however, a myriad of other federal investigative agencies that report to officials other than the Attorney General. The Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service and the Internal Revenue Service all investigate violations of federal criminal laws and all report to the Secretary of the Treasury. The United States Postal Service conducts criminal investigations through its Inspections Service. Similarly, agencies such as the Environmental Protection Agency, the Bureau of Indian Affairs, the Park Service, the Forest Service, the Department of Agriculture and a whole range of other agencies or Departments contain their own law enforcement investigative arms. In addition, a number of specialized or *ad hoc* groups perform investigations which may have law enforcement consequences. The various Inspectors General, the General Accounting Office, the Securities and Exchange Commission, the Federal Trade Commission and a number of other specialized groups perform criminal investigations within their discrete areas of expertise.

Each investigative agency of the federal government has its own training regimen, many of which fall short of the rigor most experts find to be necessary to enable them to fulfill their mission. Bureaucratic "mission creep" has led to overlaps in jurisdiction and has complicated interagency coordination. The different training and experience of officers present other crucial issues that require

extensive coordination to prevent officers from operating in situations that exceed their capabilities.

Special Challenges

The Department of Defense and the Department of State present particular challenges in the area of law enforcement. Each of those departments perform essential missions on behalf of the American people, and each department has an ancillary law enforcement function. Thus, the military investigate and prosecute violations of military law and carries out investigations in such areas as fraud and impropriety in procurement practices. The State Department by reason of its plenary authority in the conduct of foreign affairs, often intersects with law enforcement concerns that cross international boundaries. Moreover, the Department of Defense possesses tremendous resources that could be used to help enforce the criminal laws. The role of the military in law enforcement has never been fully resolved, as traditional concerns expressed in the *posse comitatus* statute are weighed against the obvious assistance that the military could provide to civilian criminal law enforcement. The role of the military is greater now than it was ten years ago, but it is inconsistently applied and waxes and wanes in the absence of bright-line rules concerning what that role should be. Another area that needs oversight and review is the role of intelligence agencies in criminal law enforcement. These agencies often obtain information that could be very helpful to domestic law enforcement agencies. They often hesitate to permit use of such information, however, because it may tend to disclosure of sources and methods

of intelligence gathering. Like the role of the military, this is a policy issue that should be resolved outside the pressures of an immediate problem.

Finally, federal law enforcement efforts face the additional challenges brought about by *ad hoc* structural changes aimed at specific problems. The clearest example of such a response was the creation of the "Drug Czar", the Office of National Drug Control Policy. This type of *ad hoc* response threatens to add other layers of bureaucracy, making it all the more difficult to enforce federal laws consistently.

Some Observations and Criticisms

The time has clearly come to step back and look at the structure of federal law enforcement. For many years, policy makers have generated *ad hoc* solutions to short term or high visibility problems. These solutions often add to the jurisdictional reach of several investigative agencies but do not provide for the integration of these additional authorities within the structure of federal, state and local law enforcement. A response to the "problem du jour" can thus generate a quick press release but leave long term complications in law enforcement. As priorities change, there remain bureaucracies with vested interests in preserving and expanding the law enforcement authority granted to respond to yesterday's problem.

The Attorney General of the United States remains the nation's leading law enforcement officer, but virtually every Cabinet Secretary and many agency heads direct law enforcement officers. The Secretary of the Treasury directs over

15,000 criminal investigators, and the Secretaries of Agriculture and the Interior also direct very significant law enforcement resources. The Office of National Drug Control Policy and other entities with no line enforcement authority also influence law enforcement priorities and policies. These varied influences surely provide a check and balance that prevents the Attorney General from exercising unbridled discretion, but they also create a risk of a muddled enforcement policy where interagency rivalries can lead to inefficiency and inconsistent investigation policies.

I believe that more centralization is needed in order to best fulfill the mission of federal law enforcement and to protect the civil rights and civil liberties of Americans who are potentially subject to investigation or have other contacts with federal law enforcement officers. I say this knowing that it is a question of degree and that some dispersion of law enforcement authority operates as a check and balance to ensure that we never have that national police agency feared by many as a threat to the civil rights and civil liberties of American citizens. It is also important, however, that there be complete accountability in law enforcement matters. Law enforcement practices should be transparent, and the American people should be able to hold identified individuals primarily responsible for enforcing the criminal laws passed by Congress.

Prescription for Change

There are no easy answers to the difficult questions being pursued by this Subcommittee, but it surely is time to conduct a long term review of the role and structure of federal criminal law enforcement. I therefore urge that this Congress

appoint a bipartisan commission of law enforcement experts, with no vested interest in the outcome of a comprehensive review, to examine this question. This commission should consist of federal, state and local law enforcement and other officials and members drawn from the civil rights and civil liberties communities of this nation. The members should be of such stature that their report will demand attention and command respect.

The commission should be given a broad mandate to review all aspects of the role and structure of federal law enforcement. It should be given the resources to conduct a nationwide review, including hearings in several locations across the nation. Most important, the commission should be given time-- enough time to conduct a thorough review that is removed from the passions of the moment. The commission should report back to the Congress within a year, and the members of the commission should focus on producing a criminal law enforcement structure that can guide the next 25 years. That perspective will avoid the unintended consequences that accompany *ad hoc* responses to immediate problems.

Congress, of course, need not sit by and do nothing while the commission is studying the current system. There are some obvious redundancies, inefficiencies and "bad fits" that can be remedied before the commission reports back. For example, I believe that the mission and authority of the 2,000 officers of the Bureau of Alcohol, Tobacco and Firearms could be focused back to the collection of revenues that caused it to operate in the Department of the Treasury originally, with its law enforcement authority being lodged elsewhere. Similarly, the mission

of the 3,000 officers of the United States Customs Service could be re-focused on criminal investigations near the border or its functional equivalent. Other changes will, no doubt, suggest themselves as a result of your hearings. Most important, it should be re-emphasized that the role of federal law enforcement generally is to complement the role of state and local law enforcement, which, appropriately, combat the vast majority of crimes of concern to our citizens.

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Again, I commend this Subcommittee for conducting oversight into these important issues, and I thank you for permitting me to offer my opinions. I would be happy to answer whatever questions you have.

Mr. HEINEMAN. Thank you. Thank you for your indepth analysis of the issue here we are debating today.

Mr. Martoche.

STATEMENT OF SALVATORE R. MARTOCHE, ESQ., FORMER ASSISTANT SECRETARY OF THE TREASURY FOR LAW ENFORCEMENT

Mr. MARTOCHE. First of all, Mr. Chairman, I want to thank you and the members of the subcommittee for inviting me and giving me this opportunity to testify today as to my thoughts on this subject.

I would hasten to add, however, that I would like to have my remarks placed in the record in their entirety, but I will, for the purposes of brevity, shorten them as much as I can, although they are fairly streamlined as it is, because I only found out the other day that I was going to be asked to pinch hit for Senator DeConcini. I will do my best to provide whatever light on the subject I can.

I would like to say at the outset that I have deep affection and respect for both the Departments of Justice and the Treasury, and particularly for those who serve in law enforcement capacities in both agencies. I consider it an honor and a privilege to have served these agencies, because they are filled with dedicated, hard working, and talented men and women. I am here today as someone then who served proudly at both agencies.

I appreciate the opportunity and I would like to say I am in private practice in Buffalo, NY, which, depending on your thoughts, is either the easternmost Midwestern city or the Midwestern most eastern city in the country. I am honored to be on a panel with Judge Bell and General Thornburgh. I have admired Judge Bell for years and had the honor and pleasure of working in the past with General Thornburgh. I consider both of these gentlemen brilliant, wise, and experienced.

As you are aware, Mr. Chairman, I served at a different level, a lower level, than either of these two gentlemen, and I would say that I served more in the trenches, first as U.S. attorney for the Western District of New York, prosecuting criminal and civil cases in a busy courtroom setting. While I was at the Department of Justice I had the opportunity to be on the Attorney General's Advisory Committee and to chair that committee for a year.

The opportunity to serve as the Chief Enforcement Officer at the Treasury Department from 1988 to 1990 is also very important to note. I wish to add that I was at the Labor Department in an enforcement position and also served as Acting Director of the Office of Thrift Supervision for a brief time while they were undertaking their review of the S&L situation.

Today I am appearing as a private citizen to express my personal views. These are views, however, that are inevitably derived from my time in public service. These hearings are timely and can only add important vitality and perspective to the debate about the appropriate role of Federal law enforcement and just how to deal with the numbers of agents and the various expertises that are necessary to fulfill the missions of many.

Our Federal law enforcement personnel have staggering responsibilities. They are working hard, but, as is often the case, they are

dealing with tough issues. No matter how careful they are, no matter how good the planning, no matter how terrific the personnel, things can and sometimes do go wrong. These are not pure sciences; these are areas that are not mathematical equations. They require judgment, and they require constant assessing of various scenarios; and sometimes, with all the good efforts in the world, one can make a mistake, because they are human.

The law enforcement community has had more than its share of troubles of late, and this committee can help the public, I believe, in a very important way, by refocusing attention on the great number of Federal law enforcement officers who do things right, and the very many agencies that do things right. The lessons that, with your help, can be learned from the failures of the past, to help the future be a more productive and less error prone are the real opportunity.

I would like to make a few points. I have seen the level of cooperation between the Justice and Treasury Departments in the area of law enforcement, and I think it is very good. I believe tremendous strides have been made. I know personally during the tenure of General Thornburgh that was the case.

This is not to say things are perfect. There is room for improvement. There always has to be a priority established at the top of both agencies to stress that. However, this does not necessarily translate into a major reorganization mandate.

Forty percent of the Federal law enforcement officers in the U.S. are housed in the Treasury Department. Now, that figure will vary and differ. Mr. Barr was speaking earlier with the people from GAO on that subject. And I am talking about "1811," gun carrying vested officers. There may be others that have law enforcement, quasi-law enforcement, or some overlapping authority I will not count. But the Treasury has the Secret Service; the Customs Service; the Bureau of Alcohol, Tobacco and Firearms; the Criminal Investigation Division of the Internal Revenue Service; the Federal Law Enforcement Training Center; and the Financial Crimes Enforcement Network.

These bureaus perform protective service financial investigations, anti-money-laundering initiatives, regulatory work, gun trafficking and gang investigations, alcohol and explosive industry compliance, and expertise and most Federal law enforcement training, as well as analytic input for financial crimes investigations.

Treasury law enforcement has unique responsibilities because they are molded, I believe, by a combination of regulatory, revenue collection and enforcement linkages that don't necessarily exist everywhere. These linkages are inextricable and should not be dismantled, because the fundamental synergy and efficiency of this approach is important. A delicate balance between efficiency and expertise between checks and balances, and linkages of agency-specific missions and law enforcement priorities constantly needs to be debated and considered.

I don't believe that there is any one right or wrong approach in law enforcement, as in most things in life. It all comes down in the final analysis, to the people involved and the efforts they make.

I will add, however, that the numbers of law enforcement officers in the Federal community makes management and oversight a

challenge. At best, under the present circumstances, to put them all together under a single agency now or later is, in my opinion, a bad idea. I think it is important to note that agents are not fungible; they can't be moved from one area of expertise to another without causing serious harm.

Thank you very much. I know that there are some time constraints.

[The prepared statement of Mr. Martoche follows:]

PREPARED STATEMENT OF SALVATORE R. MARTOCHE, ESQ., FORMER ASSISTANT SECRETARY OF THE TREASURY FOR LAW ENFORCEMENT

First of all, Mr. Chairman, I want to thank you and the other members of the Subcommittee for providing me with this opportunity to testify before you today on the nature and extent of federal law enforcement.

I would like to state at the outset my deep affection and respect for both the Departments of Justice and the Treasury, particularly for those who serve in law enforcement capacities in both agencies.

I consider it a personal honor and privilege to have served both. These agencies are filled with dedicated, hard working, and talented men and women. I am here as a person who served proudly at both departments. I appreciate the opportunity you have afforded me today to join in the discussion on this important topic.

I am Salvatore R. Martoche, a lawyer in private practice in Buffalo, New York. I am humbled to be on the panel with Judge Bell, whom I've admired for years, and General Thornburgh, who I had the honor and pleasure of working with in the past. Both these men are brilliant, wise and experienced.

As you are aware, Mr. Chairman, I served at a different (lower) level than these gentlemen. I guess you could say, I was in the trenches, so to speak - first as the U.S. Attorney for the Western District of New York, prosecuting criminal and civil cases in a busy courtroom setting. Incidentally, while I was at the Department of Justice, I also served as a member of the AG's Advisory Committee of U.S.

Attorneys, and had the distinction of chairing that committee for one year. In addition, I served as Assistant Secretary for Labor Management Standards at the Labor Department, where I was engaged extensively in enforcement efforts, and then as the top law enforcement executive at the U.S. Department of the Treasury, the Assistant Secretary for Enforcement, from 1988 to 1990. I briefly served as Acting Director of the Office of Thrift Supervision, where I was charged with overseeing matters relating to the Savings and Loan crisis, including its substantial enforcement efforts.

Today I am appearing as a private citizen to express my personal views on this important topic. These views are inevitably derived, however, from my public service. I wholeheartedly commend the Chairman and the Subcommittee members for undertaking this hearing. It is very timely and can only add important vitality and perspective to the debate about the appropriate role of federal law enforcement. Our federal law enforcement personnel have staggering responsibilities. They are working hard but, as is often the case in dealing with tough issues, things can go wrong, and they have had more than their share of troubles of late. This committee can help the public re-focus its attention on the great number of things that federal law enforcement does right and what we can do to assist them in their vital role in the future.

Let me make a few points, if I may. I've seen the level of cooperation between the Departments of Justice and Treasury in the law enforcement area. It is very good, though there is always room for improvement. Improvement needs to be a priority at both departments. However, this does not translate into a need for major reorganization.

- 40 percent of all federal law enforcement (1811 agents) are represented by Treasury's enforcement bureaus: the Secret Service, the Customs Service, the Bureau of Alcohol, Tobacco,

and Firearms, the Internal Revenue Service Criminal Investigation Division, the Federal Law Enforcement Training Center, and the Financial Crimes Enforcement Network.

- These bureaus perform protective service, financial investigations, anti-money laundering initiatives, regulatory work, gun trafficking and gang investigations, alcohol and explosives industry compliance, and most of federal law enforcement training as well as analytic input for financial crimes investigations.

- Treasury law enforcement has unique responsibilities that are moulded by a combination of regulatory, revenue collection and enforcement linkages. These linkages are inextricable and should not be dismantled. There is a fundamental synergy and efficiency in this approach, which spans the enforcement spectrum from regulatory compliance to criminal prosecution.

- A delicate balance between efficiency and expertise, checks and balances, linkages between agency-specific missions and law enforcement priorities needs constantly to be meshed as policies are established and refined. An understanding of the culture of an agency is vital. It would not be helpful to develop all of federal law enforcement into one national police force. Having specialized agencies ensures constant attention to the problems that they are directed to address. While their focus is narrow, their expertise is deep. It would be detrimental; it would not be effective. Fiscal and monetary policy, global considerations in an ever-shrinking world, and just plain common sense establish that there is value in each of the various law enforcement components of both Justice and Treasury; and that any change in the system as it presently exists should be slow and carefully studied. As crimes become more sophisticated, the need becomes more acute for law enforcement agencies to focus their

specific expertise in these growing areas of criminal activity. We must be careful not to head in the wrong direction. One thing we have learned from history: There is no single 'right' or 'wrong' approach to any problem. Checks and balances, separation of powers, appropriate oversight, excellent training, all have their value. But most important are the people. They will come to the table with the richness of their experiences and the ethical standards developed over a lifetime. They will be different from one another. But it is precisely those differences, that diversity, which will allow for a more universal vision - so that the decision-makers can benefit by the old adage: "Knowledge is power" - though, they and we must be vigilant that this old adage does not change to another: "Power corrupts, and absolute power corrupts absolutely." This does not usually happen intentionally. It can often be the result of well-meaning people not viewing things in their totality.

Thank you.

Mr. HEINEMAN. Yes, there is a vote. We will be back in 15 minutes.

And, Mr. Thornburgh, I do know you have another engagement. You have to leave early. I know your report speaks for itself. I think it was a very comprehensive report and very meaningful. I thank you for your presence here today, and you may take leave.

Mr. SCOTT. Mr. Chairman, could I ask Attorney General Thornburgh one quick question?

Mr. HEINEMAN. Yes.

Mr. SCOTT. Why would one central agency enhance civil rights?

Mr. THORNBURGH. I think from the point of view of accountability, Representative Scott. That is to say that with the authority centralized to disseminate the kinds of rules that have to be observed by law enforcement officials and the responsibility for any defalcation in observance of those roles being centered in one individual, you would gain a distinct advantage. You would get away from the kind of passing of the buck that sometimes occurs when something goes wrong.

I don't think there is anything, and never have felt there is anything, inconsistent between firm and effective law enforcement and the absolute observance of the civil rights and civil liberties of our citizens, but I do believe that oftentimes because of the proliferation of agencies it is difficult to attach responsibility when something goes wrong, and, by the same token, the central authority for issuing rules of engagement or conduct would enhance that accountability as well.

Mr. HEINEMAN. Thank you.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. HEINEMAN. We will be back in 10 to 15 minutes.

[Recess.]

Mr. MCCOLLUM [presiding]. I am going to call the subcommittee to order at this point. We have a working quorum for the purposes of the hearing since Mr. Heineman is back. Mr. Thornburgh has to leave at high noon, and so I would like to ask him some questions. Mr. Scott is here as well.

I am going to focus some of my questioning to you particularly, with no intention of oversight of Judge Bell and Mr. Martoche. It is simply because your time is limited. We can come back and ask Judge Bell and Mr. Martoche questions.

Mr. Thornburgh, do you view competition among Federal law enforcement agencies with overlapping jurisdictions to enforce similar crimes to be a good thing, promoting efficiency and diligent crime fighting, or do you think it is a hindrance?

Mr. THORNBURGH. It depends, Mr. Chairman. I think within the Department of Justice, of course, we have jurisdiction for title 21 offenses, for example, in both the FBI and the DEA, and while there is a degree of overlap, because they are both within the Department of Justice, there is an ability to parcel out responsibilities that can reduce the inefficiency that might result from untrammeled competition.

There is always a concern within the Department to see that the Bureau's capabilities, which really depended upon the more sophisticated type of investigation of complicated money laundering investigation or the like, not be diverted into street level "buy and

bust" type of situations which were more within the province and experience of the DEA. Both of their capabilities were used in the increasing amount of international work that was done because both had worldwide contacts.

On the other hand, when you get into agencies, again looking at title 21 jurisdiction, outside of the Department of Justice, that ability to coordinate and parcel out responsibilities is lacking. Even though we had good relations with Secretary Brady on a variety of matters, the fact was that his concerns were focused primarily on financial and economic questions and less so at the law enforcement level, so that while we would deal with the occasional eruption that happened when there was a real clash in jurisdiction, the day-to-day coordination was much more difficult with agencies outside of the Department of Justice.

Title 21 is an example, but that occurs in a number of other areas where there is no centralized ability to coordinate these investigations.

Mr. MCCOLLUM. Well, as you probably observed during the Waco hearings, we discovered that Treasury Secretary Bentsen, who had been aboard about a month or so before that happened, had never spoken to anybody in his ATF or any of his law enforcement agencies during that month, nor had his primary assistant. They had both been aboard for about 30 days. And then over in the Interior Department, I have discovered that the Secretary of Interior and that crew just don't pay any attention to the park police; that is an extremely small spot on their blip screens. So those are concerns.

Does competition between Justice and Treasury and the other agencies for funding in the law enforcement area—is that healthy at the OMB level when you get in there and have these fights, or is that something which is just a pain in the rear end and we ought to do something different about it?

Mr. THORNBURGH. Well, for better or for worse, Mr. Chairman, as I indicated, the central, if not the exclusive, focus of the Attorney General's Office is on law enforcement, and I think Judge Bell and I both could speak to the fact that we tend to throw our weight around a little in that respect, and we would assert, in my tenure, in no uncertain terms, the need for resources at both the OMB level and before the relevant appropriations subcommittees and, frankly, were treated hospitably in both quarters because of the pressing need for law enforcement matters.

We did have occasional bumping up with other agency—other Departments, but it wasn't generally a zero sum proposition when it came to funding, it had to do with ancillary jurisdictional and matters of authority that were contained within the appropriations bills that your body and the other body considered, and we would have to occasionally put out fires there.

But I don't think that the competition for funds, as such, was troublesome during the time that I served as Attorney General.

Mr. MCCOLLUM. Would you recommend merging the DEA and the FBI or the ATF and the FBI, anything of that sort of thing?

Mr. THORNBURGH. Well, as I indicated in my prepared remarks, I think there is room for a revision in the mission of the ATF, that it is—being in Treasury and originally emanating from the need to

deal with the revenue side the Treasury is almost exclusively preoccupied with.

To take out the law enforcement functions that ATF exercises and merge those into appropriate agencies within the Department of Justice I think would be a step in the right direction. But, again, I want to hasten to add that these are off-the-top-of-the-head conclusions that would be better dealt with by the type of commission that looked at this over an extensive period of time.

Mr. MCCOLLUM. I want to thank you for recommending that commission. I think that is a very good suggestion to us and one we are going to take very seriously.

I want to allow about 5 or 6 minutes—I want to make sure everybody here knows that Mr. Thornburgh has to leave—for any questions that want to be asked of you by the other members who are present here, and then we will go to a, quote, second round to ask our remaining two distinguished witnesses questions.

Mr. Scott.

Mr. SCOTT. Mr. Chairman, the gentleman from North Carolina was kind enough to recognize me before the break, so if either he or the gentleman from Ohio have questions for the Attorney General, they may do so.

Mr. MCCOLLUM. Do you have any questions for Attorney General Thornburgh, Mr. Heineman?

Mr. HEINEMAN. Well, only to repeat myself relative to the in-depth assessment of why he is here today. I was very impressed with that recommendation of the Commission, and also there seems to be—there seems to be a lot of doubt from the panel and a lot of doubt up here as to those quasi-enforcement agencies such as EPA, OSHA, Department of Agriculture, and other myriad of agencies that do have some enforcement relative to citations and tickets.

Would you recommend that that issue take—be part of that commission? Or if that Commission never—is formed, would you recommend that those quasi-law-enforcement agencies be taken a good look at, as to what they are doing and as to whether they should be assessing fines as a non-law-enforcement agency?

Mr. THORNBURGH. Let me just take a minute to dwell a little bit on the recommendation of a Commission. I think frequently in this setting commissions are looked on as a copout, some way to shift a hot potato out of the lap of one group into another. I suggest that that is not the case here.

I think the need for a Commission to take a long-term independent look at the law enforcement structure in the Federal Government is a result of years and years of accumulation of new authority, new jurisdiction, and changing circumstances, frankly, that hasn't occasioned the type of long-term look.

I must tell you, as Attorney General I was not able to hold these problems at arm's length, and I know how busy individual Members are in dealing with the wide variety of problems that you have. I think this Commission could be an extraordinary resource for this committee and for the Congress, and I think building on the type of factual evidence that is beginning to be developed by GAO, you would have an answer to a lot of these questions that,

frankly, none of us, and even as the GAO indicated this morning indicated they didn't have a firm grip on.

It is time to look at something as important as the Federal law enforcement structure in great depth and at great length so that all of us who have an interest in it, particularly you as elected representatives, can satisfy your constituents, that we have the highest and best use being made of the enormous resources that we devote to law enforcement and at a time when it is a very high level of concern among the American people.

Mr. HEINEMAN. Thank you.

And if I recall your comments correctly, Judge, you also are in agreement with taking another look at what some of these law enforcement or all of these law enforcement agencies do as far as their mission?

Mr. MCCOLLUM. I am going to come back to you, Mr. Heineman, on anything for Judge Bell. We are going to have another around.

If Mr. Chabot has anything of Mr. Thornburgh, he literally has to run out of here in about two minutes.

Mr. CHABOT. Extremely briefly, I just wanted to note that I did have the opportunity to review the testimony of both Judge Bell and General Thornburgh, and I found the testimony very interesting.

I have reviewed it with my staff, particularly some of your thoughts relative to the ATF and how we can perhaps make some improvements there. I just want to thank you very much for the testimony, and I look forward to working with you in the years to come.

Thank you.

Mr. MCCOLLUM. Mr. Barr, Mr. Thornburgh has to leave, and we are going to have another round with the rest of the panel. Do you have any particular question for Attorney General Thornburgh?

Mr. BARR. I know where to reach him. He is always available, Mr. Chairman. We have had discussions with him. I don't want to hold him up today, but I appreciated his testimony and look forward to working with him on some of the details.

Mr. MCCOLLUM. Mr. Thornburgh has to leave. Do you have any questions just for him alone? We are going to have another round.

Mr. COBLE. No. But good to have you here, Dick.

Mr. MCCOLLUM. Before you do run out, I just have one last question I think I can get in under the wire here if nobody else is going to ask you this—Chuck, do you have a question you want to ask Mr. Thornburgh? We are going to have another round, but he has to leave by noon. Do you have anything you want to ask him particular?

Mr. SCHUMER. I will do one quick one.

The question that I have is about the intertwining of Federal, State, city law enforcement. We have had that debate on this committee for quite a while.

Give me your views of this statement, which is basically my belief: I am not worried about federalization. I think we have such a problem in keeping our streets safe that my constituents, correctly, in my judgment, don't ask who is going to solve their problem; that, rather, whoever solves it, they are going to be grateful. And if you believe, as I do, that one of the greatest failings of our

Government is its failure to keep a modicum of safety—we debate a lot of things here, but nobody debates that this is not Government's role to keep the streets safe—why not have more Federal involvement? Because many localities are either unable or overwhelmed or don't have the resources to mix in and help out.

Mr. THORNBURGH. Well, I can answer that from two vantage points, Congressman Schumer. One is, having served as a Governor of a major State for 8 years where we made law enforcement a priority in response to those kind of citizen concerns and gave more aid and assistance to State and local authorities and accomplished a lot of change and reform in the way they tackled crime, without having to look to the Federal Government and without diverting scarce Federal resources which have particular areas of expertise, such as organized crime, interstate fraud, public corruption, into dealing with violent crime, violent crime is—you are absolutely correct, that is the number one concern of American citizens, because it is the most visible and closest to home of the type of criminal activity that can be carried out, and there is a Federal role there.

I would suggest, for example, the ongoing efforts in Operation Trigger Lock, which brings into play Federal jurisdiction and tough Federal laws with respect to the use of firearms by repeat violent offenders in close cooperation with local officials who are better able to identify the most egregious of these repeat predators for Federal treatment.

That seems to me to be a classic kind of application of the kind of cooperation, without directly involving Federal officials in dealing with street crime.

I think they would be making a mistake, with all deference, to turn the Federal law enforcement establishment into a street-level police force, a mistake in two respects:

One, I think people at the local level would eventually come to react negatively to having a law enforcement operation being run out of Washington, DC, that affects their communities; and, secondly, it would cause us to neglect what I think are less visible but equally important efforts against white-collar crime, official corruption, and something I know you have always been interested in, the effort to deal with the war on drugs.

So it is a balancing situation, one that can be worked out. But I think this is one of the things, the reasons that I suggested a longer-term look at this through a national commission.

Mr. SCHUMER. Good answer.

Mr. MCCOLLUM. Your 12 witching hour has occurred.

Mr. THORNBURGH. I am going to turn into a pumpkin.

Mr. MCCOLLUM. As you begin to turn into a pumpkin, I am going to ask a question that is going to Judge Bell. If you have time, you want to comment on it before you walk out, you are welcome to, but I think you are probably going to want to run.

The question I want to ask, though, so I don't want you to be caught blind-sided not having commented on it, Secretary Rubin has suggested to us that there was a real danger, Judge Bell and Attorney General Thornburgh, in concentrating too much law enforcement power in the hands of one agency, either in the sense of the FBI getting too much power or in the sense of there being too

much of it in the Justice Department, and I am curious to know what your feeling is. Will we be making a mistake?

You have recommended a Commission, Mr. Thornburgh. That would be certainly part of what they would study. Do you personally, or do you have a preconceived notion in that regard? If you don't have time to answer, OK. But I don't want to blind-side, not getting that question out there.

Mr. THORNBURGH. Let me just give you a quick answer, and then you will hear probably a much more complete and informative response from my colleague, Judge Bell.

I think it would be a mistake to concentrate all the pieces of so-called law enforcement that exist within the Federal Government in one agency. It would be inefficient, for one thing. But I do think it would be important to concentrate the major law enforcement functions under the Attorney General of the United States, and that I think is what Judge Bell has suggested, and I think looking at that as the centerpiece of the law enforcement function, with appropriate ties to lesser activities—the parking ticket, the kinds of things that really, in my view, don't constitute classic law enforcement—would be a workable solution.

But I think it would be a mistake to put the—for want of a better phrase—the parking ticket function as part of a vast centralized operation.

With that, I will take my leave. I apologize.

Mr. MCCOLLUM. Thank you very much for coming. I really appreciate it very much.

Judge Bell, maybe I should rehash the question. I think you probably heard it, and it is based somewhat on your testimony. But Secretary Rubin of Treasury during the Waco hearings told us in no uncertain terms, and of course he is concerned about ATF, but I think he was saying that in a philosophical sense that he really thought that if you put too much law enforcement power in the hands of the FBI you have created something that is dangerous to the society. That is the way he put it. I just wondered what you think about that.

Mr. BELL. Are you speaking of Secretary Rubin at the Treasury?

Mr. MCCOLLUM. At the Treasury Department, yes, sir.

Mr. BELL. I didn't know he had that experience in law enforcement.

Mr. MCCOLLUM. Well, that is true.

Mr. BELL. I don't know that he knows a lot about it.

But this would be my view: The Attorney General, in the first Congress, that office was created so the President could rely on the Attorney General to faithfully execute the laws. That was the beginning. The FBI started years later the Department of Justice was not even created until after the Civil War. The FBI started when the Department of Justice at that time employed three investigators. That is the background of all of this. Now it has grown like Topsy.

General crimes ought to be under the Attorney General. Fraud: For example, the chief fraud prosecutor of the Nation ought to be the Attorney General.

Now, some agencies—we were talking this morning about OSHA, the Department of Labor, where you have these inspectors, they

are specialists we will call them, and that is not anything for the Attorney General to be doing, that ought to be done in some other way. It is like we have different levels. You can analogize it to the different levels of courts—misdemeanor courts and felony courts and so forth.

I think taking that concept, you would end up where most of the people that are so-called law enforcement in the Federal Government would end up somewhere in the Department of Justice.

Mr. MCCOLLUM. Let's ask that question in specific terms about the enforcement of the gun laws in this country, the laws that the ATF has. They have several hats they wear, but they wear—one of the hats that is most controversial is where they were going in at Ruby Ridge and Waco and then they called in the FBI as the backup team.

Mr. BELL. Well, the BATF is simply not equipped for that kind of activity. They are not—that whole agency started to collect money.

For example, what law enforcement role would there be in cigarettes? That is one of the names, one of the jurisdictions, they have. They just collect taxes what they are supposed to be doing, and they have just slid over in some way into being a law enforcement agency. That ought to be separated. Let the BATF continue to exist to collect taxes.

Mr. MCCOLLUM. And you are not concerned about overconcentration of law enforcement in that sense in one agency?

Mr. BELL. No.

Mr. MCCOLLUM. Mr. Martoche, I know you have a different view, having been over at Treasury. Would you care to comment on the question?

Mr. MARTOCHE. I would, Mr. Chairman. Thank you for the opportunity.

With all deference to Judge Bell, it seems to me that Americans have a history of not wanting super concentration of power in any single group of people. There has never been a serious effort to nationalize the police forces in this country, nor do I think there should be, although there is always room for some consolidation and some rethinking, as long as it is done globally and takes in the whole panoply of considerations.

I want to add that when we talk about cigarettes, for instance, and sort of trivialize that type of enforcement, we make a mistake. Cigarettes are a major problem. There are untaxed cigarettes flowing up north in abundance, super abundance, and that leads to tremendous problems as far as its support of organized crime, which then underwrites other illegal activities with its profits. I want to make that point.

I think if you disrupt the synergy between the revenuers and the regulators that now exist, in many instances, with the law enforcement capabilities, you know what is going to happen: The priorities are all going to be set by this super agency, and they are often going to be reacting to the problem de jour, as General Thornburgh characterized it. What happens then is, these linkages that are less important to the agent whose background is solely law enforcement who may not have an understanding of the nuance of a particular agency, get lost. The new agents get assigned there; the complex,

more difficult things that were able to be analyzed and dealt with are no longer able to be dealt with as effectively. The final thing that I want to say is, there is only one prosecutorial agency in this country at the Federal level, and that is the Department of Justice through the U.S. attorneys. They have the final hammer about priorities because they decide, in their own districts, which cases to prosecute and which not to prosecute.

Mr. MCCOLLUM. I am going to go to Mr. Scott, but I can't resist following up with a point of concern. You heard me say today, you may have seen it yourself or watched in those Waco hearings, when Secretary Bentsen and his principal deputy did say to us that they had been in office for 30, 40 days, without having ever met not only with the head of ATF but any of the other Treasury agencies.

Isn't there some concern on your part, some danger, that some of the heads of other Departments, besides the Attorney General, who have these law enforcement functions, are so busy and preoccupied with things like the Secretary of Treasury would be in world marketplaces for money, and he was over at an international meeting on money and finance when this Waco thing unfolded, that they aren't going to give the kind of attention to the law enforcement portion of their agency that the Attorney General perhaps would or the attention that is needed?

Mr. MARTOCHE. I think, Mr. Chairman, that Waco has changed that forever. One of the few good things that I can point to that has resulted from the Waco incident is that there has been a real wake-up call as to the importance and priority of law enforcement issues at Treasury.

Now, it may not last forever, but for the next 50 years every Treasury Secretary who comes down the pike is not going to forget this lesson and is going to recall Secretary Bentsen's testimony.

And I do think there is room for improvement from time to time. I think you are going to see that. I think the upgrading of the office that I once held to an under secretary position represents tangible proof of that. I think the kind of access that Under Secretary Noble has reflects a change that has occurred as a result of that.

Mr. MCCOLLUM. Thank you.

Mr. Scott, you are recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Martoche, in your prepared testimony on page 3, you refer to the culture of an agency. Let me follow up on that a little bit, because if you have a centralized force you will have one law enforcement culture. That culture in one agency allowed the good ole boys roundup to occur. The Navy culture allowed Tailhook to occur.

If you had just one culture, might you get into a situation where the standard would not be what we would want it to be?

Mr. MARTOCHE. A certain amount of tension between agencies, between agents, is inevitable, and that is not always a bad thing. There ought to be some rivalry that says we do this better, and gives other people the impetus to do things better themselves. I have seen that happen.

I also think that we have to be careful. We have to be vigilant, because there is a terrible four-letter word that sometimes rears its head in law enforcement. That is "turf," T-U-R-F. And I have known agents and agencies, as I am sure Judge Bell has, that

would rather see a case go unmade than see a wrong agency, in their opinion, make the case.

But this is a people problem. This is a training problem. The idea of emphasizing better training is important. For instance, I think that the Border Patrol is one of the unused, little used gems in law enforcement. They are a Justice agency, not a Treasury agency, but their people have language capabilities and training that really ought to be utilized on a broader base.

And frankly, if I were going to begin to consider where to at least explore the possibility of downsizing and consolidating government within the law enforcement community, it would begin with the U.S. Customs Service and the U.S. Immigration and Naturalization Service, which do overlap a great deal.

Again, I say this without all the information, without giving it all the thought that it deserves, but it is a place that I would start, long before I looked at moving BATF or certainly the Secret Service, which has expertise in the President's safety and well-being that I think cannot be matched very easily, if at all, as well as the ability to deal with counterfeiting, which is renowned the world over. They are the leaders in their areas, and we shouldn't forget this.

ATF had some problems. They brought a new guy in. Believe me, from top to bottom, there is a new message being sent out, and I think we ought to give that message an opportunity to be heard before we rush to a knee-jerk reaction just because we want to do something for the sake of doing something.

Mr. SCOTT. Thank you.

Mr. BELL. I don't disagree with the statement about the Customs and the Border Patrol.

Mr. SCOTT. Do you disagree or agree?

Mr. BELL. No; I agree with that. That has nothing to do with the BATF.

Mr. MARTOCHE. That is right.

Mr. BELL. That is just another area where you could have some consolidation.

I would like to make one more statement about the chairman's question about concentrating power.

When I became Attorney General, there was a great move on in the country to merge the DEA and the FBI. I studied that at great length. The DEA is under civil service. They received all of the emoluments that go with civil service. The FBI is not. They are totally different cultures, and I finally concluded that you couldn't put them together and it would be better to leave them separate.

The FBI has a culture built up over the years, over the whole history of the FBI. They don't have regular hours. They work long hours, and it is just a different group of people.

So that was one thing. Then the second thing we were facing was the FBI, during J. Edgar Hoover period, specialized to some degree in catching car thieves. Director Hoover loved to tell the Congress how much money they saved by catching car thieves.

Well, I met with the FBI top-level management and told them that we were going to have to refocus, decide what it was the FBI is going to be doing in this country, and I believed that most local

law enforcement people could handle car thieves and bank robberies within the State and that we ought to be doing other things.

So we began to refocus and change what they were supposed to be doing. It wasn't changing the jurisdiction, it was just changing the focus. That would be what would happen if we had a consolidation. You wouldn't have a concentration of power in one agency. You might have four or five agencies in a Department of Justice. Each one would have a distinguished leader, and there would be no worry to me at all about a concentration of power problem. What we need is more professionalism in law enforcement, more skill.

So that is—I would not worry about it.

Mr. SCOTT. Are you going to have another round?

Mr. MCCOLLUM. If you like, we can, sure.

Mr. BELL. I took all of his time.

Mr. MCCOLLUM. We can go ahead and do it now and take the time.

Mr. COBLE. Mr. Chairman, I have a luncheon.

Mr. MCCOLLUM. Well, then let's have another round.

Mr. COBLE. If it is OK.

Mr. MCCOLLUM. We will be fair about it.

Mr. Coble, you are recognized.

Mr. COBLE. Gentlemen, thank you all for being here.

Mr. Chairman, you were absent when Mr. Bell made his comment. But, Mr. Bell, your statement precisely tracks the purpose of this hearing. The purpose is to hopefully eliminate duplication, reckless spending, waste.

And, Mr. Chairman, Mr. Bell reminded us, when he left Justice they had a work force of 54,000. There are now 92,000. Now, gentlemen, that is inexcusable. And it is not a partisan thing, Democrats and Republicans alike have contributed to it, but we need—we have done a good job up here, Mr. Chairman, of harnessing the legislative branch. We have pared back committee staffs. I think we need to send that message out from this Hill and do the same thing in the Federal Government, and I am confident that it can be done.

Judge Bell, you gave an illustration about OSHA, and I just want to comment about this. This has nothing to do with duplication—it probably does, too. There may be five agents out there when one could be doing the job.

But I think in addition to duplication, Mr. Chairman, attitude is important. An OSHA agent goes to Mr. Bell—Judge Bell's place of business and sees a dirty rag on the deck. "Well, Mr. Bell, that is going to cost you $700, my friend," and they slap a fine on you. The way to handle that is, "Mr. Bell, we don't need dirty rags on the deck. It contributes to danger in the workplace. Clean it up. Next time I come by here, I'm going to fine you."

I think if we can emphasize the importance of attitude on the part of these agents as well as addressing the duplication efforts, we would be well served.

And, Judge Bell, I thank you for your having put a finger on the pulse.

Having said that, I would be glad to hear from each of you if you want to refute or confirm what I have said.

Mr. BELL. I just do confirm it. That is my attitude about it.

You mentioned attitude. There is an attitude that I worry about, and that is that people with a badge many times can't manage power. The most difficult thing to manage in our country is power. A great number of people cannot handle power, and that is particularly true of law enforcement people. That is why they have to be more professional. And efficiency has a lot to do with it, too.

Mr. COBLE. You said that is—I did not hear your last comment. What was the last thing you said?

Mr. BELL. I said, "and efficiency."

Mr. COBLE. OK.

Mr. BELL. Everybody ought to worry about the Government's money, and you don't need to have 10 people doing something 1 can do.

Mr. COBLE. Amen. Amen, brother.

Mr. MARTOCHE. Mr. Coble, if I may respond.

Mr. COBLE. Sure.

Mr. MARTOCHE. By the way, I agree wholeheartedly with you and with Judge Bell that there are certainly areas where we can give greater thought to consolidation. I simply don't think it should be done piecemeal and without a great deal of thought.

But one of the things that we could do, one of the great things about Federal law enforcement, for example when the drug crisis really hit and when people began to take note of it, was to step into the breach at the local level to assist local law enfircement and citizens to get the Federal courts and the might of the Federal Government involved in a very local way.

I think there might be an opportunity to consider those temporary measures and make some changes giving us a better bang for our buck, now concentrating on more localized community and statewide interests. As I said, you can get a lot bigger bang for your buck at the State level, both because of the salary structure of the Federal employees vis-a-vis the local prosecutors and judges, and, frankly, because the locals can use the opportunities in different ways which suit their needs.

This is an area to be looked at carefully, returning some of this money, but still keeping the jurisdiction so in those situations where locals are not doing the job for one reason or another or there is an emergency, the Federals can step into the breach, while still letting local people get a better handle on things, I think that will go a long way toward solving a lot of our problems and fostering the kind of cooperation that we need with local and State law enforcement.

Mr. COBLE. Well, gentlemen, I thank you both for being with us, as well as Mr. Thornburgh.

Mr. Chairman, I think a good purpose is going to be served as a result of this hearing today.

Thank you, gentlemen.

Mr. MCCOLLUM. Thank you very much, Mr. Coble.

Mr. Barr, you are recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

I have enjoyed very much the expertise of all three of these gentlemen today, each of whom I have had, as I mentioned earlier, the

pleasure and the honor of serving with during my tenure as U.S. attorney and subsequently.

There is something somewhat different about law enforcement from other Government functions, and particularly when we are talking about the ability to take a life or the authority to take a life. That does put it into a different category, and I think that we need to be very mindful of what Judge Bell has said here, and that is that if you look at the functions of our Government, both historically and currently, primary law enforcement ought to be in the hands of people who understand that there are differences between enforcing our laws, including the ability to put people in jail or to kill them, and other functions, even though they may be very intrusive, such as OSHA and the collection of duties and fines and penalties and so forth, and to look at each one of these functions and make a rational decision as to whether or not they really need to be placed under an entity such as the Attorney General or the Department of Justice that is both constitutionally and practically tasked with making sure that our liberties are protected, as well as our citizens are protected, from those who would take them away.

I was struck, Mr. Chairman, by the almost cavalier attitude of former Secretary of the Treasury Bentsen when he was here talking about being concerned about G–7 matters at the time that Waco was going on.

And there is nothing wrong with being concerned about G7 matters. He is the Secretary of the Treasury. That is a primary responsibility of the Secretary of the Treasury. But it pointed out the fact that there are important duties being carried out by agents within the Department of Treasury, in that instance literally involved in taking people's lives, for right or for wrong, I am not arguing that here, but they have that ultimate power, and it ought to be exercised according to very clear rules of engagement, a very clear understanding of civil liberties, a very clear understanding of what law enforcement needs.

It is an awesome power, and I think that we do need to start looking at placing some of these functions, these law enforcement functions, under perhaps the Department of Justice and the Attorney General in some way. Not all of the functions. There are many agencies of our Government that are very well equipped to gather fines, to fine people, and to enforce workplace laws, and so forth.

We can argue, as we are in this Congress, about the extent to which those functions are appropriate, but once we decide that they are appropriate, then they may very well be better handled administratively or, as Judge Bell mentioned, more as misdemeanor type activities.

But I am very concerned about this huge increase in the number of agents that we have, investigators that we have, with the authority to carry guns, to kill people, to take liberties away, and I think it is very important to get the perspective that we have with these three gentlemen today, because we do—the American people are demanding that some decisions be made, and we want to see those decisions made in a responsible manner through appropriate oversight, through legislation, rather than citizens taking them into their own hands, and we all have a stake in this.

So I guess that isn't really a question, although I would certainly welcome the responses of the panelists as they have already gone over these and have provided very serious food for thought that we will now take forward as we move forward with these hearings to try and come up with some very specific solutions, both those that are bureaucratic as well as some that pertain to some of the fundamental authorities that we are talking about here.

But I think particularly Judge Bell, your perspective, going back many years and seeing this from all three sides, from the judiciary, from the executive branch, as well as from the perspective of a private citizen concerned very much about the rule of law and their civil liberties, is almost unique in our country, and I am very honored to have that perspective.

Mr. MARTOCHE. Mr. Barr, if I can just respond, I just want to add, I read somewhere a quote from Mr. Justice Jackson in 1945. He said, "I cannot say that our country could have no central police without becoming totalitarian, but I can say with great conviction that it cannot become totalitarian without a centralized national police. I believe that the safeguard of our liberty lies in limiting any national police or investigative organization."

Mr. BARR. I understand that, but it is not quite that simple. I mean civil liberties will be taken away, and people's rights can be run roughshod over by noncentralized authority as well.

Mr. MARTOCHE. That is right.

Mr. BARR. I mean we saw in Waco, if there was ever an operation in which something could go wrong, it did, with very tragic consequences, and that wasn't by a national police force. It was by—because of a number of circumstances, some of which ATF has already started to address, as you indicated and as Director McGraw, I know, is very concerned about. But we have to look at it from more than just a specific agency correcting itself. These are endemic problems that I think we are seeing now, and we have got to get an overall handle on them.

Mr. MARTOCHE. I don't disagree with you, Mr. Barr. I simply refer to history for a message that I hope and know that each of you will keep in mind.

Mr. BELL. More liberty is being lost in this country in the hands of these subagencies that have law enforcement power than in all of the FBI put together, because the FBI is trained and a lot of these people are not. That is the danger. So I think we ought to not dwell on centralized authority and these general things of that sort without really focusing on what is going on in this country.

I want to make one statement.

Mr. MCCOLLUM. Certainly. Go right ahead.

Mr. BELL. To Mr. Schumer and to you. You were talking about federalizing and the law enforcement process to General Thornburgh.

I came across something in Georgia, and I am not certain this is true in other States, but I think it is. We are spending all the money on—through the DEA on drug enforcement. We have 32,000 people in prison in Georgia and 170,000 on probation. There is no drug treatment in the State prison system.

Now, if you really want to do something about crime, you can't without drug treatment for prisoners and probationers. Ten million

dollars a year will take care of the whole of Georgia. All of those people, 200,000 people, could get drug treatment, and the State fund has put up $1 million just this year.

The prison system is going to take the money that they make on the pay telephones, they are going to take that, which is sort of a recreational fund, and use that money for drug treatment. They still won't be able to do it. So somehow or another, when you are talking about spending all this drug money on enforcement, think about offering treatment that would really reduce crime.

Mr. SCHUMER. Judge——

Mr. MCCOLLUM. I am going to recognize you, Mr. Schumer. I think Mr. Barr's time is up, and we are going to let any wrap-up questions go ahead, so why don't we recognize you.

Mr. SCHUMER [continuing]. You are right on the money. This has been a crusade of mine, just what you say. Drug treatment works, particularly in the prison, because it is hard to go through a drug treatment program, particularly for crack cocaine, where there is nothing but a therapeutic community.

Mr. BELL. You have the people under control.

Mr. SCHUMER. Not only that, because they have an incentive, because if you say to them, "OK, Smith, your alternative is 4 more years in"—well, we would say Dannemora. I don't know what the high security prison is in Georgia—right, well, we would say to you, if you go through this drug treatment, you are going to get out early, but if you don't, you are back there to finish your sentence—huge effect in terms of people who go through it.

So we put money 2 years ago in the crime bill—which I am happy to say this is one of the few places, when my colleagues took over, they kept our work—that would provide enough money for drug treatment for every Federal prisoner and enough money—did you keep the State money in?

Mr. MCCOLLUM. Yes.

Mr. SCHUMER. Enough money for half the State, half the State prisoners, which makes a great deal of sense.

Mr. BELL. That would be good, because then the States would match.

Mr. SCHUMER. They should.

Mr. BELL. I don't know whether that was in the crime bill.

Mr. SCHUMER. Unfortunately, they took money away from drug courts. That is a very good program. That is for lower level people.

I went to the administrative judge in New York City. I said, "What is your greater problem?" He said, "When I pick up somebody on the street, first or second time arrest, nonviolent, and he has a drug problem, or she has a drug problem, my choice now is to send them to prison for a few months, and they will come out worse, or to do nothing, put them on probation," which in New York is a joke. He says, "I want to tell them, treatment, but if you mess up, you then will serve your prison sentence."

Mr. BELL. Yes.

Mr. SCHUMER. Which is what the drug courts do, and unfortunately our good friends and colleagues eliminated that one. But you are on the money.

I just have one question, though, I would like to ask you about DEA, ATF, because despite my enormous admiration for you, I disagree with you on this issue. And let me ask you about focus.

The reason, I guess, more than any other that I have defended a straight ATF, a separate DEA, is because it is like the conglomerates. You know, in the sixties and seventies you had these huge conglomerates.—a hosiery company would buy an aerospace parts company and make it a subdivision. Even though they didn't merge the hosiery and the aerospace part companies, the overall director at the top didn't have enough focus on one or the other. So these conglomerates in the eighties and nineties have been divested, with good reason.

If you were to have a separate gun agency under Justice Department not merged into the FBI, because I believe you said that it should be a separate agency, not necessarily part of the FBI, it would lose focus.

Mr. BELL. Could be.

Mr. SCHUMER. Could be.

Mr. BELL. I think firearms, though, would be better in the FBI, though.

Mr. SCHUMER. Firearms?

Mr. BELL. Yes.

Mr. SCHUMER. But I think you would lose focus. I have seen over and over again in the 10 years that I have been on this subcommittee that—and the predecessor committee, that there are winds that blow and law enforcement is susceptible to trends as anybody.

So when health care fraud was a big deal, they took a huge number of personnel out of other things and put them in health care fraud. Then the trend changed and became, let's say, antiterrorism, and they put people into there. You just lose focus. DEA does drugs; ATF does firearms, throws the firearms part of it; you know, the alcohol/tobacco issue is a different issue.

Mr. BELL. That is right.

Mr. SCHUMER. Altogether, because those are more excise tax issues as opposed to law enforcement issues. And my worry is just that you lose focus when these agencies become blended, merged, or submerged in other agencies.

I would like you to address that question.

Mr. BELL. Well, you know, that is always a possibility, but if you have a good Attorney General and you have good people heading those agencies, I don't think you would lose focus.

Everything finally gets down to management; The Government pays very little attention to finding managers. Hardly ever is someone chosen because they are a good manager. But if you aren't a good manager, you can't be successful.

So I would like to have people like some of the people I recruited, Wade McCres, Judge Webster, people like that, in some of these jobs. This is serious business, law enforcement, and however these things end up, we have to have good, strong, public-spirited people who think they are making a contribution to the country, and you wouldn't lose focus if we had that kind of approach.

But there is a danger of losing focus, I agree with that.

Mr. MCCOLLUM. Thank you, Mr. Schumer.

Mr. Scott, I think you had a few followup questions, and you are briefly recognized.

Mr. SCOTT. Thank you, Mr. Chairman.

I want to thank Judge Bell for his comment on drug rehabilitation.

As the gentleman from New York has indicated, we have eliminated the drug courts, we have eliminated parole, which is a nice incentive to make sure somebody gets into rehabilitation; you know: We are not going to let you out until you are clean. We cut funding for police and prevention programs and put millions of more dollars into prisons. So I appreciate your comments.

I had a couple of quick questions. First, if you consolidate all of these agencies and have just one agency, do you run the risk of—without the overlap, of having difficulties that would come about through corruption? That is, every time you go to make a bust, the crooks just left and you don't know where it is or who it is but you have got that problem in the one—say, in the DEA, local DEA, it is nice to have an FBI or local police that you could send in and make an arrest without the crooks being notified in advance.

Do we lose that if we do too much consolidation?

Mr. BELL. Well, the drug problem is almost unique. J. Edgar Hoover would not ever agree to have the FBI work on drug problems. He said it was too corrupting and drugs have corrupted almost every law enforcement agency to some extent.

So that would be a problem, but that is the only thing I can think of in the law enforcement area that would have that corruption problem. But there is no doubt, drugs are corrupting.

Mr. MARTOCHE. Well, I agree, Judge Bell, but I would just say there is more than corruption at stake. Part of the problem and the discussion and the debate should focus not only on that but also on misguided uniformed priorities being established.

Even with all the great management skills that many people could bring, you are always going to find some people who are out of step, and the idea of a certain amount of competition and the idea of what that brings to the ability to self-police has merit and value and should be considered when you are considering consolidation.

Mr. SCOTT. Thank you.

I have a final question. Judge Bell, I think in your testimony you mentioned—I think you alluded to the way some people are arrested. It appeared to me that some of the arrests, the process of arrest, in some situations, has been for the purpose of publicity or inflicting punishment at the time of the arrest, marching someone through their office. One person was arrested in the middle of their wedding, using the arrest process for punishment rather than waiting for the court to determine punishment.

Is that what you are alluding to when you talked about the arrests?

Mr. BELL. Yes, absolutely, trying to get publicity for—by doing things like that. It is unprofessional, in my judgment, and ought not to be countenanced.

We had a lawyer in Georgia brought into Federal court in handcuffs and shackles, because he was not there to try a case. He was in State court in another county in the State. That has been dealt

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with by the eleventh circuit and I think by the Department of Justice.

But the marshal said, "Well, this is a regulation of the Department of Justice." The marshals say this. "If I am supposed to arrest somebody, I am going to have to put them in handcuffs and shackles." What kind of country are we living in now?

I am very interested in that subject. I don't think that is the focus of the hearing, at least not now.

Mr. SCOTT. I appreciate your comment.

Mr. BELL. And I have been in the Soviet Union, so I am very worried about where we are going.

Mr. MARTOCHE. I recall a situation that developed when I was a U.S. attorney where a marshal wanted to leave prisoners who were testifying before the grand jury in shackles, I said, "You are not going to do that. He said, "Oh, yes, this is our mandate. We have to do this."

Well, we went around and around. He didn't do it. But that is the kind of thing that can happen. I believe strongly in the old phrase, "Knowledge is power." But it could just as easily be in a centralized, more consolidated world of law enforcement that the quotation would change to, "Power corrupts, and absolute power corrupts absolutely."

Mr. MCCOLLUM. Thank you very much.

Thank you very much, Mr. Scott.

I just want to close with making sure everybody has a comment on this one thing.

Judge Bell, I don't know if you commented on the proposal by Attorney General Thornburgh for a Commission, a bipartisan Commission, to look at the question of this consolidation, but I would be curious if you didn't, or if you did, if you could tell me what your views are. Do you think that is a good idea?

Mr. BELL. I think it is a very good idea. I don't think you are ever going to get anywhere unless you take that approach, because every agency head or Cabinet Secretary is going to defend their turf, I can tell you that.

I was here with President Carter when he tried to reorganize the Government. We never got far with it. Everybody is protecting their turf. So you would have to have something above that.

I would suggest that if you are going to do it, that the President be brought into it.

Mr. MCCOLLUM. Oh, absolutely.

Mr. BELL. Because the President himself, if he didn't have anything else to do, could have a full-time job solving this one problem, in carrying out—so he could carry out of his constitutional duty.

Mr. MCCOLLUM. I would concur wholeheartedly. We wouldn't embark on it unless Mr. Schumer and I got the President involved.

Mr. Martoche, would you concur in that?

Mr. MARTOCHE. Yes, I would. I would only like to quickly add that no Commission is better than the people who serve on it; and no Commission is better than the staff that staffs it; and no Commission is of any value unless it has credibility; and, finally, no commission is of any value unless the Congress is committed to pay some serious attention to its findings.

Mr. MCCOLLUM. Well, I certainly agree with those truisms you have just stated. I haven't been around here too many years—14 or 15, I reckon—and I suspect that everything you just said is very accurate, and I suspect Judge Bell would agree with you, too.

I want to thank both of you for coming today. It is very much appreciated. It is always a pleasure to see you, Judge Bell. And, Mr. Martoche, we especially thank you because you did come on very short notice. Thank you again.

The hearing is adjourned.

[Whereupon, at 12:45 p.m., the subcommittee adjourned.]

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